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ABSTRACT

The text of the oversight hearing on migrant education (February 17, 1983) contains statements and testimony from three representatives of state and national migrant education organizations and from three migrant mothers. The statement and testimony of Frank L. Contreras, Director of the Texas Migrant Education Program and President of the National Association of Directors of Migrant Education, question changes in the definition of eligibility in the Administration's proposed regulations on migrant education, particularly the requirement that to be considered migratory a child must have had his education interrupted during the preceding 12 months. The statement of Raul de la Rosa, Washington State Director of Migrant Education, also questions the proposed changes and reduced funding and praises the Migrant Student Record Transfer System. The testimony and statement of Ambrosio Melendrez, representing the Texas Association for Compensatory Educators, likewise objects to the proposed regulations. Statements of migrant mothers from Wisconsin, Colorado, and Texas describe the difficult lives of migrants, praise the existing migrant education program, and express fears that the proposed changes will hurt migrant children and migrant education. Additional information includes letters and statements protesting the Administration's proposed changes and budget reductions for migrant education, as well as interrogatories on migrant education for Secretary of Education, T. H. Bell. (MH)

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OVERSIGHT ON MIGRANT EDUCATION

HEARING

BEFORE THE

SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION

OF THE

COMMITTEE ON EDUCATION AND LABOR
HOUSE OF REPRESENTATIVES

NINETY-EIGHTH CONGRESS

FIRST SESSION

HEARING HELD IN WASHINGTON, D.C., ON FEBRUARY 17, 1983

Printed for the use of the Committee on Education and Labor

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OVERSIGHT ON MIGRANT EDUCATION

THURSDAY, FEBRUARY 17, 1983

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND
VOCATIONAL EDUCATION,
COMMITTEE ON EDUCATION AND LABOR,
Washington, D.C.

The subcommittee met, pursuant to call, at 10:10 a.m., in room 2175, Rayburn House Office Building, Hon. William D. Ford presiding.

Members present: Representatives Ford, Kildee, Martinez, Gunderson, and Bartlett.

Staff present: Nancy Kober; legislative specialist; Betsy Brand, legislative associate; and Roberta Stanley, legislative aide to Congressman Ford.

Mr. FORD. The committee will come to order.

We will proceed without the minority today.

The first panel we have this morning will be Mr. Frank Contreras, director of the migrant education program in Texas and president of the National Association of Directors of Migrant Education; Raul de la Rosa, director of the administration for the compensatory education program for migrant education program in the State of Washington; and Mr. Ambrosio Melendrez, Austin Independent School District.

The purpose of these hearings is to obtain from the witnesses their comments, in respect to the regulations which have been posed by the Department of Education making changes in the existing migrant education regulations, particularly the definition of "currently migratory child," which seems to be the one that is causing the most difficulty and comment.

We want to focus this morning specifically on the changes in the regulations, as well as the way in which they fit with the regulations that have been in place.

Who would like to proceed first? Mr. Contreras.

STATEMENT OF FRANK L. CONTRERAS, DIRECTOR, MIGRANT EDUCATION PROGRAM, TEXAS, AND PRESIDENT, NATIONAL ASSOCIATION OF DIRECTORS OF MIGRANT EDUCATION

Mr. CONTRERAS. Mr. Chairman, and members of the subcommittee, I am Frank Contreras, president of the National Association of Directors of Migrant Education.

I would like to introduce the people that are here from the association that will be resource people. We have Mr. Joe Miller, from

Arkansas; Dick Bove, from New York; and Bob Youngblood, from North Carolina.

Mr. Chairman, I would like to request that the entire written text of my testimony be put in the record.

Mr. FORD. Your statement will be put in full in the record. You may proceed to add to it, highlight it or supplement it in any way with which you feel most comfortable.

Mr. CONTRERAS. Thank you. What I will do in the interest of time is highlight sections of that text.

It is both an honor and a privilege to offer testimony concerning the proposed regulations of migrant education. We respectfully submit our profound objections to the significant changes in definition of eligibility.

The revisions are the addition of the phrase "had his education interrupted as a result of the move," which defines a term "currently migratory student," and the addition of the phrase "and whose primary employment during the past 12 months has been in agriculture or fishing activity,' which defines the term "migratory agricultural worker."

I must confess that I have a little problem comprehending just exactly what is in those proposed definitions. My associates and I have read these rules over and over again, and read them again. Perhaps we are just a little too ignorant, but every time we read them we have a dozen new questions to raise; in particular, again, concerning those definitions.

We understand perfectly that the new definitions will eliminate funds which have been available to eligible children. What we cannot understand or determine is if this first cut is going to be applied immediately to this group of children whose education is not interrupted, or will these children be allowed to phase out of the program slowly under the formerly migratory children status?

Either way, we know that the program has been severely reduced. It is just a question of when the other shoe is going to fall.

We have made some projections based on estimates from last year, assuming that this group was reduced from the eligibility criteria, instead of being phased over a 5-year period. These are very conservative estimates because we haven't applied the factor of primary employment.

It appears that 70 percent of the current migratory students presently identified fall into this category of children. Later on—I think this is important—I will point out why there is a very good reason for this high percentage.

Let's realize that nationally speaking we are talking about 171,000 that will no longer be eligible for services. Our projections indicate that in Texas we are looking at a loss of $21 million for approximately 40,000 migrant students. Utilizing average annual salaries, this translates to a loss of about 1,435 teachers, or 3,372 teacher positions.

Pennsylvania's migratory student population would decrease from 1,237 children to 371, with a $2.1 million allocation dropping to about $1.4 million.

The $5.4 million allocation to Michigan for 9,261 migratory children will drop to $3.4 million, cutting additional help, educational help for over 6,400 migrant students.

For the State of Washington, the proposed limitations would cut 7,000 migratory students from the qualifying list, reducing the existing $9.3 million allocation to $2.4 million.

In addition to the ambiguity of the term "interrupted," we also have to deal with the ambiguity of the term "primary employment." This phrase seems casual enough and would hardly raise an eyebrow until you get to thinking about the Federal auditors. Believe me, they have been coming every year for the last 3 years to Texas, among other States. My point is that this term, "primary employment," can create all kinds of problems on qualifying these children.

Let's look at a typical migrant family: industrious, hard working. During the off-season, they don't sit around. They take jobs, whatever is available, because they have an aversion to lay back on welfare. That is not their lifestyle. After all, that is why they have been migrating in the first place, to get work wherever it is.

This family is waiting for the harvest season to start, and the father gets this temporary job as a gasoline station attendant or construction worker, or even a plumber's helper. They register the child in school and happen to write in "construction worker" as the father's employment on the registration card.

Here comes the auditors, trying to find data to show how the program is not serving the eligible population. They take one look at the registration cards and think they have a case because there is ambiguity in the regulations. Then we are involved in the next decade in paperwork, hearings, and traveling to the Capitol, just to try to clear up what was never clear in the first place.

We in the State agencies are asking our Federal counterparts, "What level of funding can we expect in 1984, if these new regulations get approved?" What we are hearing is that there is no way to tell because no one knows how this term 'primary employment" is going to be looked at.

We in Texas have teachers who will be expecting hear concerning their contracts for next year. School districts are calling and asking what can be expected in terms of 1984 allocations. We simply don't know what to tell them, because of the uncertainty created by the proposed definitions.

As I mentioned previously, there is a reason why so many of our students fall into the group of migratory children whose school year, education has not been interrupted. Our school people in the past year have been going out to the migrant parents and saying, "Is it possible for you to leave your children in school until the end of the term, so that they can get a continuous instructional program?"

Our migrant parents have always had the highest respect for teachers and our school system, and they themselves have seen the importance of education. So, what have they done? The parents have not only inconvenienced their travel and work schedules, but they have made financial sacrifices that mean a substantial loss of income for them.

Some of these older migrant students stay in school all year because they want to graduate. Then they go to night school in the summer, after working 10 to 12 hours in the field.

While their children are not in school, the migrant family can lose a lot of money for each day the student is not working. For the family, this is not cutting back on vacation or not going to the movies, this means having to suffer some loss of real necessities.

After all this time of telling the migrant workers to stay home during the school year, now we are going to tell them your children cannot qualify for these services, regardless of how much they need them, unless you move with them during the school year.

It seems to me that this is a prime example of how these folks get such conflicting signals from the governments: State, local, and Federal.

An issue that has been raised is what constitutes interruption. Is it 1 month, 1 week, 2 days, or 1 day? We can't seem to answer these questions by reading the proposed regulations, nor can we imagine what kind of documentation will be expected when the auditors arrive.

Another question concerning interruption constraint items is what about the migrant preschool program. Since preschool children have not yet attended school, and therefore they have not had their education interrupted, does this mean that they will no longer be eligible for services? We don't know.

It is always difficult to describe to someone the problem of socioeconomic conditions associated with migratory, agriculture and fishing work. Children often live in substandard housing, some work long hours, others are left to their own resources, suffer many social and psychological traumas under these poverty and transient circumstances.

Even if a child only migrates with his parents during the summer, the conditions are not different. Migrancy for these children is not a recreational and an educational summer camp.

As a former migrant worker, I can clearly testify it is not a relaxing, carefree and enjoyable vacation. Often illness results from migrancy because of the unsanitary toilet facilities, overcrowded sleeping arrangements, and somewhat less than balanced nutrition.

These are sad facts that directly affect cognitive physical and social development. Child psychologists will testify to the number of children whose academic achievement will be adversely affected by such conditions. When they occur is not as important as the fact that they do occur.

Any time there is a substantial change, as this one, in regulations or interpretations of legislation, we are talking about retraining all the people involved in the program. In Texas alone we are dealing with over 10,000 educators who would have to be retrained.

With this new definition, we are considering a monumental, comprehensive reidentification and recruitment effort mobilized nationwide. Essentially, we will be starting over in locating, recording on the computer systems, those students who would qualify under the two new limitations.

We don't mind undertaking this effort, because we are going to do whatever is necessary to get the job done and get the services to our children. What disturbs us is that much massive retraining is going to be very costly. While we try to get through all this complex training, some children are going to be missed.

In addition to the retraining of personnel is the fact that more personnel will be needed. I suppose you have some idea where the cost of retraining is going to come from. Educational services to migrant students will have to take a back seat to make sure that everyone knows what the new regulations are and how to comply with them.

It would appear that the administration's goal of reducing paperwork and streamlining Federal programs will receive a major setback with the adoption of these new definitions. Not only that, but this would be the beginning of an administrative nightmare for state and local agencies.

It appears that all this flap about needing new definitions has been generated by the administration's recommended budget priorities, with shifts from funds to other projects at the expense of education and other types of programs for the most needy.

As advanced as this nation is supposed to be, I would hope we could continue without penalyzing our children, who have such desperate needs, as I have previously described.

One of the most serious concerns I have is that the proposed changes in definition are a radical departure from the existing legislation, from existing regulations and interpretations.

The intent of the U.S. Congress has always been very clear. The most recent example is the technical amendments of migrant education, which were passed last December, reaffirming the original definition of migratory children in migratory workers.

Congress has time and time again demonstrated their intent to assure educational programs and services for these children most in need, and that the negative conditions of migrancy justify compensating these children for the physical and psychological damage done to them in transitory and sometimes unsympathetic environments, what then in recent legislation contradicts the definition laid down by the 89th Congress in 1966, or the 90th Congress in 1968.

It seems to me that we have a situation here where the administration is attempting to undo what Congress has done in the past, and it is continuing to do.

We can see the obvious effort of the administration trying to change legislation, to thwart the will of Congress, by writing the regulations in such a way that the true purpose of the regional legislation is subverted and jeopardized. I ask you, is this the job of the administration, or is it not the responsibility of Congress?

In conclusion, I place my confidence in this body not to be deterred from the course they have chosen, in providing support and services to the children most in need.

Mr. Chairman, before I close, I have a letter here that was just given to me, written by a parent, that clearly makes the point that I was trying to make in this testimony.

Mr. FORD. Without objection, the letter will be entered at this point in the record. You may proceed and comment on it, if you wish.

[The letter follows:]

26-002 O - 84 - 2

P.O. Box 1032,
Lockney, Tex., January 28, 1983.

Dr. RIVERA,
U.S. Department of Education,
Washington D.C.

DEAR DR. RIVERA: My name is Melida De Leon. I work for the Lockney schools, as a migrant aide for kindergarten.

Last week I went to a PAC meeting. We were informed that our migrant funding might be cut again this year. This time they say our program will be cut for all 5 yr. migrants and just leave the current migrants. I was asked what I thought about it, and was given your address, and was told if I wanted to comment on the issue I could write to you. I don't know that my letter will even be read.

May I speak to you in behalf of migrant children and relate a few of my experiences? I was a migrant. (My parents are still migrants. They still have eight children at home.) Because the government did not have a migrant program we had no help with our school work, even though we would move 3 times during the year.

It was very hard going from school to school. I never know how I was going to do in my school work because to me it was very hard to catch up with what I had missed. Sometimes I had already had the work, but it was still different to me and many times very confusing because every teacher has her own way of teaching, though they teach the same thing.

I had a teacher that would tell me to bring a nickel every week for a workbook page. (She would say:) "Tell your mother you need a nickel for a workbook page." I would go home and tell my mother, but she would say. "We can't afford it." I already got you the things for school, your teacher didn't tell tell me anything about a workbook.

I would get a zero everytime they worked in that book. This was very discouraging to me. Now funds are available to help these children.

Another thing you never knew was how the children in the schools were going to act towards you. Some children were very loving and opened their arms to you. Some were very ugly, and called you a "dummy" because you had fallen behind. They didn't see any reason to wait for you to learn or to understand. After all they knew it, and that's all that counted! Some even went a far as to say: "Look at the way she's dressed, She looks weird. Her mom sure dresses her funny."

I guess what I'm, saying is that if the funds are cut, parents will be encouraged to take their children on a moving pattern again and the children will be the ones that will have the hard times going to different schools.

After all the program was put here to try and help keep families to stay in one place, and to make families see how important it is to keep their kids in school. Many families saw that and now move only in the summer. They still don't earn a lot, but they know that this program helps their children a lot in school. So, if its cut anymore, I feel the children will be the ones to suffer for they would not have the extra help in school.

Please, if you have any say in this at all. Please, help us keep the funds to provide extra help for these migrant students. My sole purpose is to help the children who can't help their circumstances

Thank you,

MRS. MELIDA DE LEON.

Mr. CONTRERAS. It is addressed to Dr. Vic Rivera. It says,

Dear Dr. Rivera: My name is Melida De Leon. I work for the Lockney schools, as a migrant aide for kindergarten.

Last week I went to a PAC meeting. We were informed that our migrant funding might be cut again this year. This time they say our program will be cut for all five-year migrants and just leave the current migrants. I was asked what I thought about it, and was given your address, and was told if I wanted to comment on the issue, I could write to you. I don't know that my letter will even be read.

May I speak to you in behalf of migrant children and relate a few of my experiences? I was a migrant. My parents are still migrants. They still have eight children at home. Because the government did not have a migrant program, we had no help with other school work, even though we moved three times during the year.

It was very hard going from school to school. I never knew how I was going to do in my school work because, to me, it was hard to catch up with what I had missed. Sometimes I had already had the work, but it was still different to me, and many times very confusing, because every teacher has her own way of teaching, though they teach the same thing.

I had a teacher that would tell me to bring a nickel every week for a workbook page. She would say, "Tell your mother you need a nickel for the workbook page." I would go home and tell my mother, but she would say, "We can't afford it. I already got you the things for school. Your teacher didn't tell me anything about a workbook."

I would get a zero every time they worked on that book. This was very discouraging to me. No funds were available to help these children.

Another thing you never knew was how the children in the schools were going to act towards you. Some children were very loving and opened their arms to you. Some were ugly and called you a "dummy" because you had fallen behind. They didn't see any reason to wait for you to learn or to understand. After all, they knew it, and that is all that counted. Some even went as far as to say, "Look at the way she is dressed. She looks weird. Her mom sure dresses her funny."

I guess what I am saying is that if the funds are cut, parents will be encouraged to take their children on a moving pattern again and the children will be the ones that will have the hard times going to different schools.

After all, the program was put here to try and help families to stay in one place and to make families see how important it is to keep their kids in school. Many families saw that and now move only in the summer. They still don't earn a lot, but they know that this program helps their children a lot in school. So, if it is cut any more, I feel the children will be the ones to suffer, for they would not have the extra help in school.

Please, if you have any say in this at all, please help us keep the funds to provide extra help for these migrant students. My sole purpose is to help the children who can't help their circumstances. Thank you, Mrs. Melida De Leon.

Please accept my appreciation and gratitude for the kind and considerate attention you have given me and the testimony. Thank you.

Mr. FORD. Thank you.

[The prepared statement of Frank Contreras follows:]

PREPARED STATEMENT OF FRANK CONTRERAS, DIRECTOR, DIVISION OF MIGRANT EDUCATION, TEXAS EDUCATION AGENCY

Mr. Chairman and members of the subcommittee, as president of the National Association of State Directors of Migrant Education, it is both an honor and a privilege to offer this testimony concerning the proposed regulations for Migrant Education Programs, 34 CFR, Part 201.

As spokesman and duly authorized representative of this association, I respectfully submit our profound objections to specific sections of these proposed rules which are a radical departure from past interpretations of the legislation.

Our concerns focus on the significant changes in the definition of eligibility of migratory students as found in § 301.3(b). The revisions are: The addition of the phrase "had his education interrupted as a result of the move" which defines the term of "currently migratory child." The addition of the phrase "and whose primary employment during the past 12 months has been in an agricultural (or fishing) activity" which defines the term migratory agricultural worker (or fisherman).

Consequently, for the purpose of this testimony we can classify migrant children into three categories: (a) currently migratory whose education is not interrupted; (b) currently migratory whose education is interrupted; and (c) formerly migratory who has not migrated in the past 12 months.

I must confess I have a little problem in comprehending just exactly what is in the proposed regulations. My associates and I have read these rules over and over again and reread them again. Perhaps we're just a little too ignorant, but everytime we read them we have a dozen new questions to raise, in particular, about these new proposed definitions of eligibility.

Now, we understand perfectly that the new definition would eliminate funds which have been available to supplement the education of a lot of migrant children in need.

What we can't determine is, if this first cut is going to be applied immediately to this group of currently migrant children whose education is not interrupted or, will these children be allowed to phase out of the program slowly under formerly migratory children status? Either way we know the program has been severely reduced—it's just a question of when the other shoe is going to fall.

Now, some projections have been made based on our best estimates assuming the currently migratory group whose education has not been interrupted were eliminat-

ed immediately instead of phased out over 5 years. Please note that the factors of the "formerly migratory" and "primary employment" have not even been considered in these estimates because we just have no idea what the interpretations will be concerning them.

It appears that 70% of the currently migratory students presently identified fall into category a, that is, their education was not interrupted. Later on I will point out why there is very good reason for this high percentage. Now, let's realize that nationally speaking we're talking about 171,000 children that would no longer be eligible for additional instructional help and support services. Whether this happens in 1984, or 1989, we don't know but the bottom line is we do know all assistance for these kids will be severed.

Using the accrued Full Time Equivalency [FTE] earned by migratory children last year multiplied by the average per pupil expenditure for each State, we were able to make some gross kinds of projections for the amount of funds each state will be reduced. In Texas, we're looking at a loss of $21.0 million for approximately 40,000 Texas migratory children. Utilizing average annual salaries this translates into a loss of about 1,435 teachers or 3,732 teacher aide positions. Pennsylvania's migratory student populations would decrease from 1,237 children to 371 with the $2.1 million allocation dropping to about $1.4 million. The $5.4 million allocation in Michigan for 9,261 migratory children will drop to $3.4 million, cutting educational help for over 6,400 migrant students. For the State of Washington the proposed limitation would cut 7,000 migratory students from the qualifying list reducing the existing $9.3 million allocation to $2.4 million.

These huge cutbacks can only signify one thing to the migratory children in the United States—loss of opportunities to achieve in school and succeed in a career. We know that migrant education programs have accomplished much in the goal to assist the migrant child to full benefit from his education programs.

As if we don't have enough ampiguity with the term "interrupted" to agonize over, we have to also deal with a few paragraphs on "primary employment". This phrase seems casual enough and would hardly raise an eyebrow until you get to thinking about the federal auditors—and believe me, they've been coming every year for the last three years to Texas, among other states. My point is that this term primary employment can create all kinds of problems on qualifying these children. Let's look at a typical migrant family industrious, hardworking. During the off-season they don't sit around. They take jobs—whatever is available because they have this aversion to laying back on welfare. That's not their style. After all, that's why they've been migrating in the first place—to get work wherever it is. So this family is waiting for the harvesting seasons to start and the father gets this temporary job as a gasoling station attendant, or constructon worker, or even say a plumber's helper. They register the child in school and happen to write in "construction worker" as the father's employment on the registration card. Here come the auditors trying to find data to show how the program is not serving the eligible population. They take one look at these registration cards and think they've got a case because of this ambiguity in the regulations. Then we're involved for the next decade in paperwork, hearings and traveling to the Capitol just to try to clear up what was never clear in the first place.

So we in the State agencies are asking our Federal counterparts—what level of funding can we expect is 1984 if these new regulations get approved. An what we're hearing is there's no way to tell because no one knows how this term "primary employment" is going to be looked at by the auditors and no one knows what happens with the currently migratory children who were eligible this last year but did not have their education interrupted.

We have Texas teachers who will be expecting to hear about their contracts for 1983-84 by this spring. School districts are calling us and asking "What can be expected in terms of 1984 allocations?" We simply don't know what to tell them because of the uncertainty created by the proposed definition changes. What kind of rational, educational planning is this? As a matter of fact, some of our districts began their educational planning in December. They are the ones that run the best organized programs and they are the ones who are frustrated because they've got teachers who are waiting to hear if they're going to be working in migrant programs or if they're going to be looking for another position.

As I mentioned previously, there is a reason why so many of our Texas migrant children fall into the group of migratory children whose school year education has not been interrupted. Our school people, all these past years, have been going to the migrant parents and saying, "Is it possible for you to leave your children in school until the end of the term so they won't have their instructional program interrupted by the move?" We've been telling them through these parental involvement and

PAC activities that their children will have more of a chance if they can get that kind of continuous instruction for their courses of study.

Our migrant parents have always had the highest respect for teachers and our school system and they themselves have seen the importance of education, so what have they done? These parents have not only inconvenienced their travel and work schedules but they have made financial sacrifices that mean a substantial loss of income for them. Some of these older migrant students stay in high school all year because they want to graduate and then they go to night school in the summer after working 10 to 12 hours in the field. So we're talking about dedication and commitment. There are the students that also do not have their education interrupted.

While their children are in regular school, the migrant family can lose a lot of money for each day a high school student is not working. For the family, this is not just cutting back on a vacation, or not going to the movies, this means having to suffer some loss of real necessities.

After all of this time of telling migratory workers to stay home during the school year, now we're going to tell them, "Your children can't qualify for these services regardless of how much they need them unless you move with them during the school year." It seems to me this is a prime example of how these folks get such conflicting signals from their governments—local, State, and Federal. I know that I am confused!

An issue that has been raised is "What constitutes an interruption?" Is it 1 month, 1 week, 2 days, or 1 day? We can't seem to answer this question by reading the proposed regulations nor can we imagine what kind of documentation will be expected when the inevitable auditors arrive.

Another question concerning this "interruption" constraint item is "what about the migrant preschool program?" Since preschool children have not yet attended school and, therefore, never had their education interrupted, does this mean that no migratory preschool children would qualify for services? I make mention of this because of the tremendous gains that have been made with programs of early intervention for the younger migratory child. I'm sure you are familiar with the longitudinal study conducted by Irving Lazar and Richard Darlington entitled, "Lasting Effects After Preschool." This research dramatically emphasized the importance of early educational programs for low-income children in preparation for the school experience.

It is always difficult to describe to someone the problems and socio-economic conditions associated with migratory agricultural and fishing work. Children who often live in substandard housing, some working long hours, others left to their own resources, suffer many social and psychological traumas under these poverty and transient circumstances. Even if a child only migrates with his parents during the summer months, the conditions are no different. Migrancy for these children is not a receational and educational summer camp. As a former migratory worker, I can clearly testify it is not a relaxing, carefree, and enjoyable vacation. Often illness results from migrancy because of insanitary toilet facilities, overcrowded sleeping arrangements and a somewhat less than balanced nutrition. These are setbacks that directly affect cognitive, physical and social development. Child psychologists will testify to the number of children whose academic achievement will be adversely affected by such conditions. When they occur is not as important as the fact that they do occur.

Anytime there is a substantial change, such as this one, in regulations or interpretations of educational legislation you're talking about retraining all of the people involved in that program. In Texas, alone, we're dealing with over 10,000 educators who would have to have either lengthy, complex, detailed retraining, or would have to have, at a minimum, awareness training.

With these new definitions we are considering a monumental, comprehensive reidentification and recruitment effort mobilized nationwide. Essentially, we will be starting over in locating and recording on the computer systems currently migrant students who would qualify under the two new limitations.

We don't mind undertaking this effort because we're going to do whatever is necessary to get the job done and get the services to our migrant children. What disturbs us is that such massive retraining is going to be costly, very costly, and while we're trying to get through all of this complex training some eligible children are going to be missed—they're just plain going to fall through the cracks and get passed over. And I'm talking about migratory students who would qualify and need the services.

In addition to retraining of personnel, is the fact that more personnel with sophisticated interview skills will be needed to secure the information from parents concerning primary employment, record it, and maintain it in auditable files. Please

consider that this interview process will be necessary for all potentially qualified migrant children not just those who are determined to be eligible.

I suppose you have some idea where the cost of this retraining is going to come from. If it's going to be included in the funding, then educational services to the migrant students will have to take a back seat to making sure that everyone knows what the new regulations are and how to comply with them.

It would appear that the administration's goal of reducing paperwork and streamlining Federal programs will receive a major setback with the adoption of these new definitions. Not only that, this could be the beginning of an administrative nightmare for state and local agencies. The ambiguities present in the proposed changes would create interpretative and regulatory burdens for educational agencies which administer the migrant education program.

It appears that all of this flap about needing new definitions has been generated by the administration's recommended budget priorities which shift funds to other projects at the expense of educational and other types of programs for the most needy. As advanced as this Nation is supposed to be, I would hope we could continue without penalizing our children who have such desperate needs I have previously described.

One of the most serious concerns I have is that the proposed changes in definition are radical departure from the existing legislation, regulations, and interpretations. The intent of the U.S. Congress has always been quite clear. As a point of fact is the legislation passed by the 90th Congress in 1968 which included very specifically the formerly migratory child and extended their eligibility for a period of 5 years past the currently eligible period. The most recent example is the technical amendment on migrant education which Congress passed reaffirming the original definition of migratory children and migratory workers in December 1982. Congress has, time and time again, demonstrated their intent to assure education programs and services for those children most in need and that the negative conditions of migrancy justified the use of funds to compensate these children for any physical and psychological damage done to them in transitory and sometimes unsympathetic environments. What, then, in recent legislation contradicts the definition laid down by the 89th Congress in 1966 or the 90th Congress in 1968?

It seems to me that we have a situation here of the administration attempting to undo what Congress has done in the past and is continuing to do. We can see an obvious effort of the administration trying to change legislation and thwart the will of Congress by writing the regulations in such a way that the true purpose of the original legislation is subverted and jeopardized. I ask you, is this the job of the administration or is it not the responsibility of Congress?

In conclusion, I place my confidence in this body to not be deterred from the course they have chosen in providing support and services to the children most in need.

Please accept my appreciation and gratitude for the kind and considerate attention you have given me and this testimony.

Mr. FORD. Raul, please proceed with your statement.

STATEMENT OF RAUL DE LA ROSA, DIRECTOR, MIGRANT EDUCATION, STATE OF WASHINGTON

Mr. DE LA ROSA. Mr. Chairman, members of this committee, as a former active migrant seasonal worker, and one who has dedicated 13 years to the education of migrant children, it is an honor to appear before this committee to testify on behalf of the over 750,000 migrant students currently enrolled in the Migrant Student Record Transfer System.

Mr. Chairman, you are one of the few that is aware of the migrant condition. You have worked with migrants, you have heard them throughout the years, and you have helped us in many ways. There are many Congressmen that we know have lifted their vision to help us help the migrant children.

My testimony is before you. I will not read it to you. I will cite some passages and will try to make some emphasis in some areas that the President has not touched. I think what he has given to you speaks for the record.

I would like to cite, however, Senator Hatch's statement that is found in the Congressional Record of January 26, 1983. I think this particular passage captures the frustration that we are feeling, and it really points out what the migrant condition is all about. Let me read that to you, Mr. Chairman.

> We find this restriction—and this is in reference to the proposed definition of "currently migratory" that the administration is promulgating—to be unfair and impractical. Characteristically, a migrant child's progression through school (is) especially difficult because of low social and economic status, unstable family situations; the severance of ties to friends, relatives and classmates; the necessity of readjusting to new communities, new schools, new curricula and teachers; the difficulty of transferring records promptly from school to school; and often, the child's imperfect grasp of English.
>
> Obviously these factors do not depend on whether a child's family moves a week before classes start or a week after. Indeed many of them are inherent in the migrant environment generally and would persist even if the child were able to remain stationary for a year or two with a relative while the parents follow the seasonal migrant labor markets.

I think that really is the key, that what we are viewing in this administration is trying to tell migrant children, and educators of migrant children, that somehow or another the only reason why this Congress ever passed Public Law 89-750 was to address the needs of those children whose education was interrupted during the 180 days of school. Indeed, that is not what I believe and what we have believed during the past 16 years was the intent of Public Law 89-750.

We have seen that there is some rationale that the administration is trying to use to support its case. I have entered for the record a copy of a letter sent to Secretary Bell, by Dr. Ben Cameron, director of the Research Triangle Institute, an evaluation study that was conducted on the migrant program.

The administration has argued that this new definition they are promoting is prompted as a result of that study. I want you to note immediately in Dr. Ben Cameron's statement, that he totally disassociates himself with this particular use of the document.

Also, we have heard that auditors have been in various States, and they have made determinations that the truly needy migrant children are not being served. Yet, we know that this is not the case.

What they have questioned has been whether former migratory children should be served, and they have made a determination that in many cases former migratory children are being served and not currently migratory or active migrant children.

This is because, as educators, we have the ability to look at the full range of those studies, both actives and formers, and we conduct needs assessments to determine whether those children's needs are to be addressed or not with these migrant funds.

We cannot serve all the children with the funds that are made available to us. It is impossible to serve every child. We do the same thing that title I does, or the chapter 1 regular program. Within the funds that we receive, we conduct a needs assessment of the universe of children, and from that universe of children we then make a selection of those children who are greatest in need.

I would argue with the auditors, and we are arguing with the auditors, that the conclusions that they have reached, information

or conclusions that are being used by this administration, are unfair to us, the educators of migrant children.

Mr. Chairman, there is a difference between the children that are served and the children who generate funds. There seems to be a confusion here. At least, we perceive that the administration has some misunderstanding.

The children who generate the dollars are the children who are enrolled in the Migrant Student Record Transfer System. As these children move from State to State, we in the States share the percentage of the dollars that those children generate by FTE; in other words, for every child that moves into our State, we take the number of days in which they reside in our State. That is computed in the Migrant Student Record Transfer System, and we are able then to accrue a certain amount of FTE. On that FTE, the Department of Education makes their allocation to the respective States.

So, in any given situation, the State of Texas and the State of Washington, who have a child moving between those two States, share a percentage of the FTE that that student generates on a 365-day basis.

Let me tell you what this means in terms of dollars. For the State of Pennsylvania, for example, that equals to about $1.70 a day for every child that comes in and resides in their State for 365 days.

Mr. Chairman, in our State, if we lose the funds that the President has spoken to, we have 59 participating schools, 22 schools—these are rural schools, Mr. Chairman, and members—22 receive more chapter 1 migrant funds than chapter 1 regular; 6 receive an equal amount, give or take $1,000; and 31 receive an average of 38 percent of their combined chapter 1 regular and migrant education funds.

What you will be doing, if you allow this definition to remain, is you will be cutting into those rural schools, who are not getting funds from chapter 1, as you can see from my statistics, who are not getting an overly abundant amount of funds from chapter 2, because I happen to also be the administrator of the chapter 2 block grant program. Where, then, are they going to get their moneys to serve these children?

What you will do is create disruptive effect, and it will be like a domino theory. What will happen is that as these funds are lost, these children will arrive, as one superintendent told me:

> I don't care if you call them green, I don't care if you call them children who arrive during the 180-day cycle, they are going to arrive at our doorstep. We have a law that forces us to serve these children.

These children will displace those chapter 1 children who are currently being served in their programs. Under the chapter 1 procedures, you conduct a needs assessment, and those that are greatest in need are served. Migrant children will be your greatest need. They, then, will force those regular, nonmigrant children to be displaced from their programs in order to make room for these children.

That is exactly what is going to happen in my State, and I dare say that it is going to happen in the other 48 States. We have 49 States participating in the program, and it will happen in the Com-

monwealth of Puerto Rico, and it will happen here in the District of Columbia. We have migrant programs in Puerto Rico and the District of Columbia.

Mr. Chairman, one point that I missed, as I am scanning. I do want to bring to your attention that we serve over 76,000 preschool children. These children do not generate funds for the migrant program. I want to repeat that. They do not generate 1 cent to the migrant program.

The moneys are generated by the children who are from 5 to 17 years of age. From the funds that these students generate, we then take the funds, make the allocations available to the school districts on their size-and-scope programs, based on the needs of their children. Then we also make funds from that source available to serve migrant preschool children. On the top end, we also serve those up to 21.

Mr. Chairman, I am a victim of the migrant lifestyle. When I graduated from school, I was 19 years old. The following summer I was 20 years old, in August. It wasn't because I didn't want to go to school or I sat out a year or two. It was because during my first 6 years I attended school a total of 54 months. On the average, I lost 3 months of schooling migrating with my parents.

We need to serve these students who, despite the fact that they are 18, 19, 20, and 21 years old, they want to school, like I did. It is embarrassing, it is a stigma, but we are finding more and more that these students do want to go to school.

Where are we going to get the money to serve them? They don't generate money after they reach 17. So, these cuts that we are seeing, or these attempted cuts, are obviously not taking into account the fact that we have taken the dollars that you have appropriated for us, we are making the best that we can, and we are serving the truly needy; that is, those that are in need of help.

Let me cite another part, Mr. Chairman, that disturbs me. That is the fact that the administration in the regulations makes very little mention of the Migrant Student Record Transfer System.

The system is one of the most accountable systems established on behalf of education. It serves you because it keeps precise record on every child that traverses this Nation. It gives you year-old data that you can rely on to make the determination for the appropriation. Year-old data.

Chapter 1 regular, on the other hand, depends on the census count. Toward the end of the 10 years, you are using data that is almost 10 years old. Yet, we provide the administration year-old data. Every year we do a count.

If we were to receive our entitled appropriation based on these children, we would be entitled to receive $366 million. Yet, we are receiving $255 million.

In 1981, when the President and you, the members, were faced with a terrible problem of where you were going to cut, we joined you because we also believed that we needed to assist in holding down the spending. We went along with your program to appropriate $255 million, rather than the $366 million that we were entitled to receive.

The MSRTS system provided all this information and can put it in your hands. Mr. Chairman, the system was designed not just to

keep an accounting of children for appropriations purposes. It was designed by visionary migrant educators who saw technology as a means to enhance and advance the education of migrant children. We capitalize on this technology because of the interstate nature of migrant children.

We have at present a committee in education and technology that is looking beyond what many of you are hearing today about the use of nigh tech in education. We have been there. For 13 years we have been there, and we are advancing rapidly.

We intend to use mini- and micro-computers so that classroom teachers can directly interact with the MSRTS in Little Rock, Ark. Through this approach, the teachers can keep and maintain skills and they can use the system for management of materials in reading and mathematics. Now, all these dreams and all these goals that we are looking at cannot be realized if we do not have the funds to carry that out.

Permit me to read to you. I do not like to read to you, but let me read the following, which I think captures what I want to say about the current events.

I believe that there are many who know the value of the system. It maintains educational and health records for over 750,000 migrant children. It serves to remind us that there are these many and more migrant children in this Nation in need of educational and health services.

Let us assume for the moment, Mr. Chairman, that the department cannot see the educational and health value the MSRTS provides for migrant children, educators, and health providers. What then is their rationale to deemphasize the use of the MSRTS?

My cynacism prompts me to ask the following: Could it be that there are some who want the MSRTS destroyed? After all, if it is destroyed, so will the 750,000-plus records of the children. With no records to constantly remind them of these children, they do not need to appropriate funds to support their needs.

I am perhaps being too critical and unfair to department officials but, Mr. Chairman, they are being unfair to these children.

The way a democratic Nation, as I have learned through the years, solves its problems is not by looking at a group of children and addressing their needs on a one-to-one basis. A democratic nation helps groups in categories. The leaders of this Nation have the vision and have the courage and have the leadership to look at a problem and to address that problem.

I believe you are men of courage. You have been for 16 years. You have given us funds, you have cut our budgets, but you have given us necessary funds to continue to address the needs of children and to expand and to grow and to find better ways to advance the education of these children.

I, like the President, believe you will not abandon us, that you will continue to help us. I would remind you of the story of the children of Biafra, that when it was recognized that the children were starving and that they were dying, only then did the world respond to them, but they were critical. All the money that was poured, all the food that was advanced did not help those children. They died.

For those that talk about serving only the most critical or only the most needy, is that what we are going to do? Is it going to be too late to address their needs, or shall we have the courage to look for the means of identifying the needs of those children far in advance before they reach that critical stage?

Mr. Chairman and members, thank you very much for allowing me to provide testimony on what I consider to be my mission in life, afforded to me through the education of the United States.

Mr. FORD. Thank you.

[The prepared statement of Raúl de la Rosa follows:]

PREPARED STATEMENT OF RAÚL DE LA ROSA, SUPERVISOR OF MIGRANT EDUCATION PROGRAM, STATE OF WASHINGTON

Mr. Chairman, members of the committee, as a former active migrant, seasonal migrant worker and one who has dedicated 13 years to the education of migrant children, it is an honor to appear before this Committee to testify on behalf of the over 750,000 migrant students currently enrolled on the Migrant Student Record Transfer System.

Mr. Chairman, I am sure that you and the Members of this Committee, and of the entire House, are fully knowledgeable about the plight and needs of children of migratory agricultural workers and fishermen. During the past 16 years, since the passage of Public Law 89-750, which amended Public Law 89-10, we have been able to establish educational programs and a computerized communications network unparalleled in this Nation, in Elementary and secondary education, indeed in the world, on behalf of migrant children. These children's lives are dictated by circumstances over which they have no control, i.e., mobility of parents who find it necessary to traverse the Nation's highways, through 49 States, the District of Columbia and Puerto Rico in search of work in order to make a living. They follow the harvest, living in subhuman housing, enduring heat, rain, dirt, and pesticides; their children are subjected to proverty, class stigma, and constant disruption of their lives, not to mention their education. The short- and long-range effect this lifestyle has on these children is precisely what has prompted a chorus of opposition to the December 3, 1982 proposed rules promulgated by the U.S. Department of Education for the Education Consolidation and Improvement Act [ECIA] chapter 1, specifically part 201 which deals with children of migratory workers.

Educators who work with migrant children are confused and appalled with the proposed new definition of a "currently migratory child" as one who "must have his education interrupted as a result of a move" (section 201.3(b)). Senator Hatch in his testimony has eloquently spoken to the bewilderment we are feeling:

"We find this restriction to be unfair and impractical. Characteristically, a migrant child's progression through school (is) especially difficult because of low social and economic status; unstable family situations; the severance of ties to friends, relatives and classmates; the necessity of readjusting to new communities, new schools, new curricula and teachers; the difficulty of transferring records promptly from school to school; and often, the child's imperfect grasp of English. Obviously these factors do not depend on whether a child's family moves a week before classes start or a week after. Indeed many of them are inherent in the migrant environment generally and would persist even if the child were able to remain stationary for a year or two with a relative while the parents follow the seasonal migrant labor markets."

Our frustration stems from our inability to understand the thinking and motives of the U.S. Department of Education officials regarding their decision to include arbitrary, and difficult to administer, proposed regulations. They contend that the results of the Research Triangle Institute [RTI] Evaluation Study on mobility convinced them that migrant children are no longer moving. I urge you to review the letter sent to Secretary Terrell Bell by Dr. Ben Cameron, Director of that RTI Study on migrant education, in which he disassociates himself from such claims. I have attached a copy of that letter for your review.

It is further contended by the Department that results of audits show that the truly needy migrant child is not being served. They add that these results further support their decisions to redefine the eligibility of migrant children. Their intent is to ensure that the truly needy migrant children are served. I urge you to examine final outcomes of these audit findings. You will find that many of the initial find-

ings have not proven that the most needy of active and former migrant children are not being served.

What then can we educators do to ensure that these proposed standards do not become a permanent part of final regulations? We are encouraged by the efforts of those Congressmen such as yourselves who have the courage to call for hearings so that the facts may be learned. Our hopes are also lifted by action taken on our behalf such as the one taken by Congressman Goodling who sponsored and introduced a technical amendment to retain the definition of "currently migratory children" which has been in effect since the inception of the migrant program. This definition recognize all the disruptive factors included in Senator Hatch's statement.

It is clear to many of us that should this proposed restrictive definition be retained, the interstate migrant program as we have known it to be will be destroyed. If the total number of students is reduced by such a severely restrictive proposed definition, the number of children that can be counted will be reduced. Without this count, the FTE will reduce and subsequently so will the national allocation. Presently, it takes two to three "currently migratory children" to generate on Full Time Equivalent [FTE]. One FTE generates for each State 40 percent of that State's average per pupil expenditure. Under the new definition, it is estimated that over 70 percent of these children will have to be removed from the list of eligible children. This will result in a substantial loss of dollars.

We believe, Mr. Chairman, that the "truly needy" mobile, former and preschool migrant children are the children we must serve and have been serving under current regulations. It is already too costly to attend to the myriad of needs for these children who are counted to generate our funds. But Mr. Chairman, we are also serving the largest number of preschoolers, in fact over 76,000, who do not—let me repeat—do not generate one cent to the program. Indeed, at the other end 17 and over, we currently serve 14,000 students 17 to 21 year olds who again do not generate funds to the program. I would like to remind the members that only 5 to 17-year-old students inclusive generate funds, but we serve those 0 to 21.

What then will be the source through which sufficient funds can be generated to serve the truly need migrant student? If funds are reduced at such magnitude, the State of Washington's 59 school districts will seriously suffer. The following should indicate the degree to which these districts depend on chapter 1 migrant program funds: (a) 22 receive more chapter 1 migrant education funds than chapter 1 regular; (b) 6 receive an equal amount, give or take $1,000; (c) 31 receive an average of 38 percent of their combined chapter 1 regular and migrant education.

The effects of this reduction of funds are obvious. Not only will this adversely impact services to migrant children directly but it will also affect the children served by chapter 1 regular because these children will have to make room for those greatest in need migrant children whose needs will have to be met by Chapter 1 regular.

Mr. Chairman, it is my sincere belief that educators of migrant children are not asking for an excessive amount to carry out the migrant program. In fact, the appropriation for the migrant program is not based on the real FTE of 426,729.20 according to MSRTS figures, but on arbitrary figures on which the U.S. Department of Education has chosen to rely. Our statistics from the Migrant Student Record Transfer System [MSRTS] indicate that we should be generating $366,600,000 rather than $255,000,000. In 1981, I strongly objected to the U.S. Department of Education's proposed budget because it fell short of the total amount to which we believe migrant children were rightfully entitled. However, I joined with other Migrant Education Program Directors in support of the $255,000,000 which ultimately was approved in joint committee, because we also agreed that we needed to hold down spending as called for by the President.

The Migrant Student Record Transfer System [MSRTS] is the lifeline of the interstate program. It is one of the most accountable Systems established. As an accounting system you, the Congress, can utilize it to determine and approve the national appropriation for the migrant program based on the actual number of identified eligible migrant students. Mr. Chairman, Chapter 1 Regular generates its national appropriation based on the national census count which is used and accepted by the U.S. Department of Education. The migrant education program, however, generates its funds on data that is only 1 year old. For the past 2 years the U.S. Department of Education has submitted to you a line item request for the migrant education program which has ignored the MSRTS figures. In net monies, this has resulted in a loss to States of $111 million.

Ironically, Mr. Chairman, the Department during the past two years has treated the MSRTS as no more than an accounting system for determining FTE. This fact is further attested to by the minor role it has been relegated in the proposed rules.

The very purpose for which it was created—the transfer of student scholastic and health information—is not even mentioned. Congress has documented that the MSRTS is the best in the use of Federal funds to serve children that they have ever appropriated. Thirteen years ago, migrant educators had the foresight to utilize technology to enhance and advance the education of migrant children on an interstate scope. Throughout these 13 years, State directors have continuously updated the MSRTS System as new technology has become available.

We urge you to continue to support us through appropriate funding which will allow us to keep abreast with new technology so that we can educate migrant children for the world of tomorrow.

At present, a special committee in Education and Technology of the National Association of State Directors of Migrant Education [NASDME] is proposing that MSRTS go further than record keeping and a skill transmittal system, to become a materials management system for classroom teachers in reading and mathematics for migrant children. Further, we intend to make use of mini- and micro-computers so that classroom teachers can directly interact with the MSRTS in Little Rock, Ark. Should the U.S. Department of Education prevail in maintaining such a short-sighted view of the MSRTS all our plans and dreams will have been in vain and many years of progress we have made will have been lost.

All of you know the value of the System. It maintains educational and health records for over 750,000 migrant children. It serves to remind us that there are these many and more migrant children in this nation in need of educational and health services. Let us assume for the moment, Mr. Chairman, that the Department cannot see the educational and health value the MSRTS provides for migrant children, educators and health providers. What then is their rationale to deemphasize the use of the MSRTS? My cynicism prompts me to ask the following: Could it be that there are some who want the MSRTS destroyed? After all, if it is destroyed, so will the 750,000 plus records of the children. With no records to constantly remind them of these children, they do not need to appropriate funds to support their needs. I am perhaps being too critical and unfair to Department officials, but Mr. Chairman, they are being unfair to these children.

Mr. Chairman, although I have serious concerns with other standards included in the proposed rules, my testimony had centered on two main issues contained in the proposed regulations.

(1) The overly restrictive definition of currently migratory children which as I have tried to point out, will result in a severe reduction in funds to the national migrant education program, with subsequent reduction in services to migrant children.

(2) The department of Education's disregard for the Migrant Student Record Transfer System [MSRTS] and its efforts to relegate the MSRTS system to an obscure role.

Let me conclude by making the following plea. At the policymaking level you, the leaders of this Nation, cannot help a categorical group of people one by one as some would suggest particularly when that group is spread throughout the Nation! You must continue to see the problem on a broad scale and allow us to address it on a broad scale, and in meaningful terms. That is what is meant by vision and by leadership. Helping the truly needy at the individual level does not relieve the leaders of this nation of their social responsibility.

SOUTH EAST INSTRUCTION SERVICES,
Charleston, S.C., January 27, 1983.

Hon. TERREL H. BELL,
Secretary of Education
Washington, D.C.

DEAR MR. SECRETARY: During five important years of my life I devoted myself exclusively to the direction and reporting of a study of the ESEA Title I Migrant Education Program. This study was conducted by the Research Triangle Institute of North Carolina (by whom I was then employed) under contract with the Office (and, later, the Department) of Education.

I am dismayed by the use of reported results of this study to support changes being proposed in the regulations for the Migrant Education Program now authorized under Chapter I of the Education Consolidation and Improvement Act of 1981 as published in 47 Fed. Reg. 54718 (1982), and am writing to comment on these proposed changes. As part of these comments, I call attention to areas where regulations or procedures need to be strengthened, but where proposed changes would inevitably lead to serious weakening of services designed for the target population of migrant children.

The proposed changes that are of greatest concern to me are contained in part 201.3, and have to do with:

(a) The requirement that, to be considered currently migratory, a child must have had his education interrupted during the preceding 12 months as a result of a move to find temporary or seasonal employment in agriculture or fishing; and

(b) The requirement that the primary employment of the person (parent, guardian, or the child) moving to find temporary or seasonal employment in agriculture or fishing must have been in agriculture or fishing during the preceding 12 months.

Since no precise interpretations of the intended meanings of "primary employment" or "interruption of education" have been published, my comments must be more general than I would like. My comments are based in part on reports I have received of interpretations discussed with State Directors of Migrant Education in early December 1982 by Assistant Secretary Davenport.

I wish to make four principal points:

1. The requirement that a child's education be interrupted within the preceding 12 months by a move associated with migrancy during the regular school year if the child is to be considered currently migratory would result in the withholding of services of the Migrant Education Program from many of the children by whom the services are most badly needed.

It was the intent of Congress in originally incorporating special provisions for migrant children into ESEA Title I to try to compensate these children for disadvantages attributable to the "condition of migrancy." These disadvantages often do include badly interrupted education, but they are not limited to this. A great deal of competent work has indicated that the social and psychological trauma associated with repeated moves into strange (and often unsympathetic) environments is of even greater importance in retarding the emotional and cognitive development of migrant children. And this trauma will always be present, even if the move does not interrupt the child's education. While cognitive development is properly the major concern of the Migrant Education Program, the program deals also with other factors.

Congress also recognized that a major educational disadvantage affecting migrant children was the change in academic programs that often accompany changes in schools, even if there is no interruption in education. The Migrant Education Program provides for important interstate coordination in enhancing educational continuity. The study that I directed found that substantially more coordination is needed. Congress specifically took this into account in creating and extending a Federal categorical program because of this difficulty. Depriving a migrant child of the services of the Migrant Education Program would deprive that child also of the coordination provided through that program.

Moreover, practically every LEA has more educationally disadvantaged children than it can serve with existing funds for compensatory education. Analyses of needs and assignment of children to compensatory programs is done before the beginning of a school year. A child moving into a school after a school year has started is almost certain to be excluded from LEA programs for the balance of that year, so that a migrant child moving during the school year is extremely unlikely to have access to compensatory education unless he can get it from the Migrant Education Program.

2. The requirement that the primary employment of the person moving to accept or seek employment in agriculture or fishing have been in agriculture or fishing during the preceding 12 months is without recognizable virtue. Instead, it fails to recognize the fact that many migrant children move with their families because their hand-to-mouth existence at the bottom of the economic ladder dictate that every opportunity for employment be seized; in many cases the primary employment (regardless of the criteria applied) may not be in agriculture or fishing, but in another menial area dictated by circumstances.

Though my argument against this particular provision of the proposed regulation stems from my recognition that its imposition would deprive many of the truly migrant and disadvantaged children of the valuable benefits of the Migrant Education Program, I recognize also that this provision is completely antithetic to one other proposed regulation, and, particularly, to a principal stated reason for the publication of new regulations. Despite the provision in part 201.3(a)(2) that "an SEA or operating agency is not required to obtain documentary proof of either the child's eligibility or civil status from the child or his parent or guardian," as a practical matter every SEA, LEA and operating agency would feel forced to obtain complete documentation covering the employment of every person through whom eligibility of a migrant child was established. And the accumulation, sorting, and filing of such documentation would create a paperwork nightmare completely contrary to Chapter

I's intent to streamline and modify requirements "to reduce the burden on State and local agencies and provide greater flexibility in determining compliance."

My other comments are more general, and have to do with some of the consequences of instituting the two changes just referred to, inevitably severely reducing and limiting resources available to help compensate migrant children for the "condition of migrancy."

3. The study that I directed convincingly indicated the presence of a significant population of migrant children that is essentially invisible to the Nation's systems of schools, and to the Migrant Education Program.

The study's principal reports urged increased emphasis on identification and recruitment, with the provision of significant technical assistance and standardization from the Program office to assist SEAs and LEAs in finding and working with these most disadvantage of all migrant children.

Though no study has verified the existence of this population, or systematically estimated its size, it does exist, and it represents a severely neglected segment of our society. One would hope that new regulations governing the Migrant Education Program would provide mechanisms to assist in solving the problem; instead, the severely restrictive regulations on which I comment would greatly reduce the ability of the Program to address such problems.

4. While disadvantaged children in the Nation's cities are served by the bulk of Chapter 1 funds, migrant children in all phases of their nomadic existence typically attend rural schools that receive very small (often no) allocations of regular Chapter 1 funds. Such schools are severely impacted by the seasonal coming and going of migrant children, and are heavily dependent upon funds received under Chapter 1's Migrant Education Program to provide services for these children.

Such rural schools that are heavily dependent on Migrant Education funds would be particularly hard hit by the proposed regulations referred to earlier, both because of the general reductions of those funds, and by the removal from eligibility for service of many of the children who are, and would remain, migrant, and who would continue to move into these schools.

I hope you can recognize from what I have said that, during my more than five years of very close association with the Migrant Education Program I developed profound interest in these children, their problems, and their welfare, as well as a real respect for the dedication and ability of migrant educators at all levels. I am therefore very concerned about the possible weakening of the program by the institution of the regulations on which I comment. The fact that a child is born into a migrant family, and is destined to a life of deprivation without effective intervention is of much greater importance than unduly restrictive definitions of eligibility. I sincerely hope that both of these changes will be removed from the final regulations, and that the requirements contained in the 1980 regulations will be retained.

Sincerely yours,

BEN CAMERON,
Director of Institution Services.

Mr. FORD. Mr. Melendrez.

STATEMENT OF AMBROSIO MELENDREZ, AUSTIN INDEPENDENT SCHOOL DISTRICT, REPRESENTING THE ASSOCIATION FOR COMPENSATORY EDUCATORS OF TEXAS

Mr. MELENDREZ. Mr. Chairman, members of the committee, I am Ambrosio Melendrez. I live in Austin, Tex. I am the administrator for the chapter 1 and migrant education programs for the Austin Independent School District.

I appear before you today representing the Association for Compensatory Educators of Texas. This organization is made up of over 600 administrators, supervisors of instruction and other personnel working with chapter 1, migrant, bilingual, and State compensatory education programs.

We are an association that relies heavily on the support of these education programs, either through the Federal funds that are allocated to our school districts, be it through the chapter 1 program or through the migrant education program, and also in Texas through our State compensatory education program.

Today, I am here to address the published proposed rules and regulations that were published in the Federal Register. The proposed changes that are of greatest concern to me and our organization deal with the proposed definitions and the requirement that to be considered currently migratory, a child must have his education interrupted during the preceding 12 months.

The other requirement that is of primary concern is that the primary employment of the person, be it the parent, guardian, or the child itself, be from temporary seasonal employment in agriculture or fishing.

There are no precise interpretations of these intended meanings that I could find, nor that we could find. So, there is still room I guess for misinterpretation in these published regulations. For those reasons, they are of great concern.

First of all I would like to address the requirement that a child's education be interrupted within the preceding 12 months by a move associated with migrancy during the regular school, if a child is to be considered currently migratory, would result in the withholding of services for many, many children in the State of Texas.

We had a computer analysis done by the migrant student record transfer system that Mr. de la Rosa was talking about a few minutes ago, commonly referred to as the MSRTS. It disclosed that over one-third of the migrant children in the State of Texas who are presently receiving instructional and support services will no longer receive the services if the proposed definitions are adopted.

Here we are talking about 50,000 children that will no longer be eligible for the supplementary instructional and support services. As you know, Texas has the largest migrant population of any State. We have currently approximately 150,000 students participating in the program.

One of the ironic things that the proposed regulations addressed is that the child's education will be interrupted. For many years many migrant program directors, including myself, have been encouraging parents to keep their children in school for as long as they can, and if possible until the end of the school year. Then, if they migrate outside the State, we tell them to try to come back before school starts.

Many parents have done that. They have left, in many cases, for another State, but they would leave their children behind, with a grandparent, with relatives, with other members of the family, or even with friends of the family, so that child could finish out the school, and then in many cases, in their return trip to Texas, they would send the children back with a relative or a grandparent, somebody, just so they could get back to the State by the time school started. Now, what is happening under these proposed regulations, these migrant students will no longer qualify for services.

I think and many members of my organization believe that these rules will clearly penalize those families that have made an effort to have their children attend school for the entire school year.

I pose to you, should we now encourage migrant students to leave school early and return late so they can qualify under the proposed definitions? I think that in due time, in a very short time, migratory parents will find out that they have to leave early and

come back late and will be back where they started out a few years ago, when the migrant program came into being.

In the process, I feel that we are going to be doing a great injustice and a great disservice to many thousands of migrant students that have made an effort to stay in school and need supplemental instructional and support services.

Another thing that migrant project directors have asked me to mention to you is they have recognized that one of the big disadvantages that migrant children face is a change of academic programs as they move across this country. Even if there is no interruption of education, they may attend several schools during the school year.

The migrant education program has been promoting and has been very, very instrumental in setting up coordination among the different States that participate in the program. MSRTS has been very helpful, very instrumental to us in helping us provide continuity in the education, both in the transfer of academic records and health information, so that this information would be available to the receiving school districts and then also to the home school district once the migrant child returns back to their home State and their home school district.

The other concern—I have several, and many of them have been mentioned by Mr. Contreras and Mr. de la Rosa—is that the proposed regulations, Mr. Contreras mentioned that the effort by the administration to streamline the regulations and to decrease paperwork would suffer a setback.

This is true. I can see no way that we could implement these proposed definitions without an increase in paperwork. We would also need at the local level additional recruiters, identifiers of migrant children. A large percent of our program budget, money we use for instructional programs, would be devoted to the identification of migrant children.

We would also have to keep records as to when their education was interrupted and for how long and then a determination be made. We would also have to obtain some sort of documentary proof that the primary employment was in fact in agricultural work.

Then we would have to determine if the majority of their income—that has not been addressed, and I foresee that would lead to additional paperwork and additional recordkeeping, which in turn would require more personnel. Instead of using them in the classroom to provide instructional services, where I feel that our primary responsibility lies, we would be increasing the paperwork.

There are several problem areas that migrant directors in our organization asked me to address to you. I have included them as an attachment to my testimony. These are effects of proposed regulations for migrant education on the recruitment programs.

Herein will be where the problem lies: the identification and then the qualification of the migrant students as proposed in the new regulations.

As Mr. Contreras and Mr. de la Rosa mentioned, I am also a former migrant. I have migrated from Texas to the States of Illinois and Wisconsin. I feel that I have a personal knowledge of the

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hardships that these families face every day of the year, not knowing where they are going to be working next week, next month.

As an educator, I thought that by the time I started teaching there could be a change. The migrant education program came into being. This was during the late sixties. There have been many things that have been done by migrant education programs.

I feel that we have certainly reduced the number of dropouts in our schools, especially in the State of Texas, working closely with other States that participate in the migrant education program, and providing some continuity of education for the students through the MSRTS, making sure that credits are accrued, especially at the secondary level, where students, if they fall behind in their semester credits, then you get discouraged and drop out.

Many times I would start school in the State of Washington and come back to Texas in the months of October or November. Now we have set up a system where the records or the credits of the students that were accumulated can be transferred to the home school district in Texas, pick up right where they left, and all this information would be available to the counselors, to the principals, to determine if the child has been in school for a sufficient length of time, so that that student might graduate.

I want to convey to you, Mr. Chairman and members of the committee, that the migrant programs are providing much needed services to a population that prior to the migrant education program had been neglected and had been unnoticed.

Somebody has called us the invisible subculture within the Hispanic population. Many of the students, I guess, were unnoticed because many never even attended school. If they came back late, nobody made an effort to recruit them or enroll them in school. The same was true when they went to the receiving States from Texas. Many schools did not want to enroll them because they were already crowded and they wanted to keep the program for the local students.

So, migrant programs have made a difference, and I feel that migrant programs have provided the resources and provided that extra effort that is needed to keep the children in school and to benefit many of our migrant students.

I appeal to you to continue your support for migrant education. I also respectfully request that you make every effort to retain the definitions that we have been operating under. These were published in the Federal Register of April 3, 1980. These definitions have served us well, our personnel have been working with those definitions, and they have provided the much needed services to as many children as we can possibly reach with the funds that you have allocated.

I thank you very much.

[The prepared statement of Ambrosio Melendrez follows:]

PREPARED STATEMENT OF AMBROSIO MELENDREZ, AUSTIN INDEPENDENT SCHOOL DISTRICT, REPRESENTING THE ASSOCIATION FOR COMPENSATORY EDUCATORS OF TEXAS

Mr. Chairman and members of the committee: My name is Ambrosio Melendrez and I am from Austin, Tex. I am the administrator for the chapter 1 and the Migrant Education Programs for the Austin Independent School District. I appear before you today representing the Association for Compensatory Educators of Texas in my capacity as the chairman of the State Legislative Committee. Our organiza-

tion is made up of over 600 administrators, supervisors of instruction and other personnel working with chapter 1, migrant, bilingual and State compensatory education programs in Texas.

I am here today to offer testimony and comments on the proposed rules and regulations for migrant education.

I have studied the proposed regulations and have analyzed the effect that these proposed rules and regulations will have on the migrant education programs in Texas.

The proposed changes that are of greatest concern to me are contained in part 201.3, and have to do with:

(a) The requirement that, to be considered currently migratory, a child must have had his education interrupted during the preceding 12 months as a result of a move to find temporary or seasonal employment in agriculture or fishing; and

(b) The requirement that the primary employment of the person (parent, guardian, or the child) moving to find temporary or seasonal employment in agriculture or fishing must have been in agriculture or fishing during the preceding 12 months.

Since no precise interpretations of the intended meanings of "primary employment" or "interruption of education" have been published, my comments must be more general than I would like.

The requirement that a child's education be interrupted within the preceding 12 months by a move associated with migrancy during the regular school year if the child is to be considered currently migratory would result in the withholding of services of the Migrant Education Program from many of the children by whom the services are most badly needed.

A computer analysis by the Migrant Student Record Transfer System [MSRTS] for the State of Texas disclosed that over one-third of the migrant children in Texas that are presently receiving instructional and support services will no longer receive these services if the proposed rules are adopted. We are talking of approximately 50,000 migrant children that will no longer be eligible for these services. As you know, Texas currently has approximately 150,000 migrant children participating in the migrant education program.

For many years migrant project directors in Texas, including myself, have encouraged migrant parents to keep their children in school until the end of the school term and to return to Texas and to their home school district before school starts so that their children would not miss out on their education. Many of the migrant families have taken our advice and done this at great personal sacrifice. Many parents have left their children behind with the child's grandparents, aunts, uncles or friends of the family so that the child could finish out the school year before joining the rest of the family in another State or wherever the family was working.

Now under the proposed regulations these migrant students will no longer qualify for services. These rules clearly penalized those Migrant families who are making an effort to keep their children in school for the entire school year. I ask you: Should we now encourage migrant students to leave school early and return late so that they can qualify under the proposed definition? I can tell you now that we will not have to encourage them to do this. In a very short time migrant parents figure out what it takes to qualify their children and they will move accordingly. We will soon be right back where we started a few years ago and in the process do a great injustice and disservice to thousands of migrant students that need these supplementary instructional and support services.

Migrant project directors in our organization recognize that a major educational disadvantage affecting migrant children is the change in academic programs that often accompany changes in schools, even if there is no interruption in education. The Migrant Education Program provides for important interstate coordination in enhancing educational continuity. Depriving a migrant child of the services of the Migrant Education Program would deprive that child also of the coordination provided through that program.

These proposed changes will also lead to an increase in paperwork, additional recruiter responsibilities and a larger percent of our program budget devoted to the identification of migrant children. As part of this testimony I am submitting some of the effects and several unanswered questions that migrant project directors have identified as possible problem areas that have not been addressed by the proposed rules and regulations.

As a former migrant who migrated from Texas to such places as Princeville, Ill.; Cambia, Windlake, and Wawtoma, Wis., I have personal knowledge of migrant family lifestyles and the hardships that Migrant families endure. As an educator who has taught in a predominantly migrant community in South Texas and as a former migrant education specialist for the Texas Education Agency, I have wit-

nessed many Migrant education programs that are providing much needed services to a population of children that had been neglected and gone virtually unnoticed until the migrant education program and its resources stepped in to provide that extra effort that has benefitted many children in Texas and all over this country. On behalf of migrant children everywhere, I appeal to you to continue your support and your dedication to migrant education and I respectfully request that you support the effort to retain the definitions in the final regulations published in the Federal Register of April 3, 1980.

EFFECTS OF THE PROPOSED REGULATIONS FOR MIGRANT EDUCATION ON RECRUITMENT PROGRAM

I. ADDITIONAL PAPER WORK

A. More paper work will be required to gather the data involved with the verification of missing school dates. Whereas in our present system recruiters need only concern themselves with data about the family's movement, the proposed regulation would require the accumulation of "interrupted school data" on every child.

B. Additional personnel and time would be required to file and update the new forms which must be completed.

II. ADDED EXPENSES

A. New eligibility forms would be required for all school districts participating in the migrant education program.

B. The additional time and personnel required to collect the data, to file it, and update it will amount to considerable expense.

C. Retraining all recruitment staff would entail an immediate expense in the thousands of dollars.

D. Assuming the dates of interrupted school would be recorded on the Migrant student Record Transfer System [MSRTS], hundreds of dollars per month would be spent by recruiter time and phone expenses, since personnel will have to phone the terminal operator for verification of "missed school" entered by other states. This would occur when childrens arrive in receiving states in mid-summer. It may appear that they have left after school ended, but this can only be verified through a terminal operator inquiry into the computer.

III. QUESTIONS AND INTERPRETATIONS NOT ADDRESSED IN THE PROPOSED RULES

A. Who will record this information and where should it be recorded?

B. At which end of the move does education have to be interrupted for it to be a qualifying move?

C. What constitutes interrupted education—a whole week, a day, a part-day? Do moves on weekends, school vacations or school holidays qualify?

D. Does "interrupted education" reflect actual attendance or enrollment in school?

E. Does a move done with prior approval and planning or where work is completed ahead of time qualify?

F. How are qualifying dates determined when unconventional calendars (i.e. four day week, year-round school, trimester) are used by school districts?

G. Are present Migrant statuses to be redefined? That is, can we have a child who continues to move each year with his parents but is not eligible because he has not missed any school?

Mr. FORD. Thank you. I appreciate the effort and preparation that all the members of the panel have put into their presentation.

I would like to observe for the record that we have been joined in the hearing by Mr. Martinez of California, Mr. Kildee of Michigan, Mr. Bartlett of Texas, and Mr. Gunderson of Wisconsin. I am sure they all will have some questions.

This seems like deja vu. We have been around and around on this issue before. Some other unenlightened person in a previous OMB thought this would be a quick and easy way to save some money. It seems apparent that the educational questions which are raised here have not been considered by people who look at this as

a quick, easy way to eliminate numbers from the MSRTS computer that would generate entitlements under the program.

It is hard to conceive of anyone who has worked with migrant education programs for any period of time wanting to promote the discouragement of one of the principal goals that you directors have reached so hard to achieve; that is, continuity in education.

I have seen some extraordinary efforts by people like you at the table, and others across the country. The level of cooperation has been exemplary; it would really be a model for our regular—if I can use that term—school systems to follow in providing services for children who cross State lines and are in their classrooms for only a very temporary period of their educational life.

It seems to me that what all of you are saying is that the efforts that make for continuity would disqualify your kids—that to the degree that you succeed in providing for uninterrupted education, even though it means moving from State to State, it would be counterproductive. If you achieve that goal, which has always been very high on your list of priorities, you are going to disqualify the children by the very definition from participation in the program.

That doesn't make any sense. That is like providing money for reading and saying as soon as the kids begin to read better, we will stop teaching them remedial reading because there has been some improvement.

Obviously, a policy that produces a result that is contrary to what we are spending the money for in the first place makes very little sense. I want to ask you as State directors, how much consultation did you have with the Office of Education before this regulation was promulgated?

Mr. DE LA ROSA. None, Mr. Chairman.

Mr. FORD. Isn't that a little unusual? Haven't you in the past been called in to talk about these things before they put a regulation in the Register?

Mr. CONTRERAS. Mr. Chairman, as president of the association, we meet about three times during the year, and we have always had Mr. Vic Rivera, or somebody from that office, to meet with us, to provide us information that we need as we plan for programs throughout the states. We haven't even had that opportunity with that office.

Mr. DE LA ROSA. Mr. Chairman, to be correct, on December 3, which was a Friday, the rules were issued. It just so happened that we had our annual directors' conference the following Monday, which was the sixth. It was at that time that we were informed by Department of Education officials that this was their intent.

It was sprung on us. As I have indicated, it clearly shocked us. We were appalled. We went through many emotions, and we are still going through many emotions.

Mr. FORD. Dr. Rivera certainly didn't write this regulation, did he?

Mr. DE LA ROSA. Pardon me?

Mr. FORD. Dr. Rivera didn't write this regulation, did he?

Mr. DE LA ROSA. Mr. Rivera will neither confirm nor deny that he has had anything to do with the regulation, which is very unusual for Mr. Rivera.

Mr. FORD. I think it is maybe time to get some of those people over here from the bureaucracy. I can't believe that if this went through his shop, that it would have been written in this fashion. I have to believe that this is something that started over in OMB and just went sailing through the department without anybody connected with the program calling their attention to what kind of trouble they are going to start.

Mr. DE LA ROSA. We have asked for those records. We have been trying to determine the genesis of this whole—I was going to call it a plot, but I better not do that—action. We cannot get our hands on who initiated this move.

Mr. Contreras asked for the working papers and was assured that he would receive documents in reference to the genesis of that, but I don't think he has received them. Have you, Frank?

Mr. CONTRERAS. No, this was requested here in Washington, then in writing, following that up, and I have not received anything yet.

Mr. FORD. I am also somewhat taken aback when I try to visualize the practical way in which we would administer this kind of a regulation. It fascinates me that people from an administration who take great pride in having come to this town to eliminate paperwork and red tape could come up with an absolutely ingenious way in which to make the school systems of this country get into an unprecedented recordkeeping and verification process with parents of children.

We have never, ever had a Federal program with that kind of evidentiary display and recordkeeping establishment of eligibility type of situation, not even in the bad old days of school lunch, simply a piece of paper saying what was daddy's income last year, and it qualified her or didn't qualify her. Ever since our earliest experience with that, we have tried to avoid stigmatizing children and their parents with this kind of specific questioning.

I don't know how you would train your people in the program to even elicit this kind of information from people, nor how you would have managed to get all this information without discouraging the parents from participating in the program.

We have tried without a great deal of success in many other areas to involve parents in the federally funded and supported educational programs. You people in the migrant education program have done a better job in involving parents—in what we considered, as a matter of fact, when we originally wrote it, to be an impossible task for you—than what anybody has done generally with the other programs where we have tried to get parent involvement.

I have spent enough time with you and with the task force and with the parent groups to recognize that that now is a very valuable adjunct of the whole concept of the motivation of the family for continuity in the education of the child.

We have been talking for years about the shame and the shock of the fact that less than 10 percent of these children are finishing high school; not because they are stupid children and not because their parents aren't motivating them, but because there are competing priorities for the family at the time they reach high school age that militate against them having anything close to a normal school existence.

I certainly know that Chairman Perkins and Mr. Erlenborn, our ranking minority member, will cooperate in seeing what we can do to get the department to rethink this. I will look forward to having somebody come up from the department to try to explain just what it is that we are going to accomplish by way of a better use of our money, through all of this additional paper shuffling that is going to cost money. I think, as Frank indicated, that means money that has been used in the educational program will be diverted to administrative costs.

I am very pleased, incidentally, to see you quoting from the statement of Senator Hatch because he has indeed taken the time to learn a good deal about these programs. That is a compliment, also, to the director in that State, who has apparently done a marvelous job of providing the Senator with information that makes him now one of your good friends here. He is a valuable ally, given his position in the other body. I will write to him immediately and suggest that we might join in a request to the administration to rethink their position. There is a delay now until March 18, so we will have to do it rather quickly.

Mr. Bartlett, do you have any questions?

Mr. BARTLETT. Yes, Mr. Chairman.

I am Steve Bartlett. I am a Congressman from Dallas, Tex. As a Congressman from Texas, but more importantly I suppose as a person who has grown up in Texas and attended Lockhart public schools, just south of Austin and central Texas, this is an issue which is near and dear to my heart. I very much appreciated your testimony and the fact that you came here so very well prepared.

This regulation, as I read it, is one in which is still, as the chairman said, in its 90-day comment period. We have until March 18 to continue that comment. As the chairman knows, and as you know, I am not an advocate typically for large-scale new spending programs. I would suggest that this is not any sort of a new program, but in fact, it is the reverse. It is a program that has been tried and tested and proven. It works and educates children and works the way it is.

A wise old man said once, "If it ain't broke, don't fix it." I would suggest that perhaps there was nothing broke about the definition in the past and it didn't need fixing. So, in light of the 90-day comment period, I would offer my comment, both here and directly, to this department: Here is one Texas Republican who disagrees with this definition of the regulation.

This regulation would work contrary to the goal. The goal, as I went to Lockhart public schools, was in fact to try to keep students in school. The migrant children that I went to school with wanted to learn, and worked at learning and worked at their studies far more on the average than most of the other students.

The parents would make sacrifices, as the parents who are here know, to keep them in school, and financial sacrifices, as you so eloquently listed and defined in your testimony, to try to find ways to keep their students in school.

What we don't need is some new Federal regulation which would work contrary to that and would cause the Federal Government to, unwittingly but nevertheless assuredly, cause a reverse of that goal and of that need to keep students in school.

In a direct nature, in the State of Texas for these 22 schools you listed, which get half or more than half of their chapter 1 money from this program, the loss of 1,435 Texas teachers—and it was Mr. Contreras that came up with that figure—is a loss that we can't afford.

The pupil-to-teacher ratio is already way too high, and it is not a loss that we can afford or the students can afford. The educators can probably go one way or the other and you all will survive, but the students themselves won't learn to read and write nearly so well. I would suggest that it becomes a very real loss in the classroom.

I would suggest to you, and I would suggest, in this case, to the Secretary, who has asked for our comments because it is during the 90-day comment period, by way of comments, that the proposed regulation itself—only proposed—shows a lack of understanding of the real world and the real situation as it exists in the classroom; that this definition is not an accurate definition of migrant students.

Mr. Chairman, having said all that, I am not sure that I have any questions to add to it. It is a subject which we Texans know a great deal about. There is no Texan in the room who is not able to better define migrant students than this regulation does.

I thank each one of you for being here.

Mr. DE LA ROSA. Mr. Bartlett, I would just like to comment and enter for the record that there are at least 8,000 letters that have been submitted to the department. Of those 8,000, only a handful have supported the administration. Of the 8,000, there are at least 30,000 comments in opposition to the regulations. You are certainly joined out there by many people—educators, parents, and students—who have voiced their opposition.

Mr. BARTLETT. Thank you.

Mr. FORD. Mr. Gunderson.

Mr. GUNDERSON. Thank you, Mr. Chairman.

I will be very honest with you. I am one of those people who probably needs an education on this issue. I recall in the Wisconsin Legislature that we did deal with the migrant housing bill some time ago, but that is about the only activity or connection that we have had in my area with this. We have very little interaction with the migrants in Wisconsin, generally, and in particular western Wisconsin, where I am from.

Perhaps you could provide a little bit of information for me which would be of assistance to help me understand where we ought to go in trying to deal with this. What is the present definition of migrant child? I am fully aware of what the proposal is, but what do we presently use in determining eligibility for title I funding?

Mr. CONTRERAS. The present definition is the student and parent or guardian must migrate, crossing school boundaries, for the purpose of working in seasonal agriculture or fishing activity within the past 12 months. There is no reference to school being interrupted.

Mr. GUNDERSON. I certainly agree that 12 months is probably too short a time. Do you think there ought to be some time limit?

Mr. DE LA ROSA. That is a currently migratory child; that is, a child who is mobile and moving. He or she moves within the past 12 months and, as Mr. Contreras has said, crosses a school boundary.

The problem with the new definition as opposed to this one, let me give you an example. In our State, we have a large number of migrants who come into our State during the summer. They come in to work the crops.

When they enroll in September, technically speaking, their education will not have been interrupted, but they will impact their schools. They will be there for 40 to 60 days. They will leave our State, move into another State, and in that State their education will be interrupted.

But in our State, their education will not have been interrupted during that 180-day period because the interruption, as the administration is attempting to use it, is literally an interruption to the school year.

Mr. GUNDERSON. Under the present law, do both school districts receive funding for the migrant student?

Mr. DE LA ROSA. Yes, but we share the FTE. What happens is that if those students are in our State, then we accumulate a percentage of the FTE or the number of days on a 365-day cycle. We accumulate so many days of residency. Then when they return to let's say a sending State like Texas, then Texas picks up the rest of the fraction of the remainder of the 365 days.

That combined makes one full FTE. The MSRTS system computes that, turns that in to the department, so Texas is credited with its fraction of the FTE and we are credited with the fraction of the FTE.

Mr. FORD. Would the gentleman yield to me?

Mr. GUNDERSON. Sure.

Mr. FORD. I think it is important to get on the record at this point how we fund migrant education program. This program is unique in that all of the other programs, particularly the title I program, rely on census data that gets outdated by as much as 10 years.

Data that says this is where people were years ago when the census was taken, and on the basis of an assumed correlation between certain characteristics of those people where they were 10 years ago, we pass out money. We never really know whether the money goes directly to the children we are trying to target or not.

There are two exceptions to that. One is the handicapped child and the other is the migrant child. We linked them together in 1974, I believe, so that the only way that a school recovers any money for providing a program for either a handicapped child or a migrant child is to actually have a program for them, and actually have them participate in its.

In the case of the migrant child, we keep a centralized record at the MSRTS in Little Rock, Ark., for all of the 49 States hooked into the system. Paul, how many people are on the MSRTS?

Mr. DE LA ROSA. Seven hundred and sixty-nine thousand.

Mr. FORD. The MSRTS compiles a basic school record which is accessible to any school which identifies a child as migrant, checks with that computer and gets the necessary information and plugs

the child into the right classroom and so on. When the child leaves, they feed back to the computer how long they have had the child in their school system.

Then that child, or a combination of children, is divided into 365 days. Four different school districts could get a piece of that child's annual appropriation. If he or she was in four different school districts during the course of a year, the computer would sort out one-half to the Texas system and one-eighth to another system and one-quarter and so on down the line, until you use up the 365 days.

The same child might not necessarily generate a whole 365 days. As a matter of fact, how many children does it take to give us the 769,000?

Mr. DE LA ROSA. In the particular case of Mr. Gunderson, it takes four children in your State to make one full FTE. So, for every four children you get one full FTE and 40 percent of your State's average per pupil expenditure.

Mr. FORD. For Mr. Gunderson's edification—and Joe Miller, the Director of the MSRTS is sitting there—off the top of your head, Joe, how much money currently goes into Wisconsin for their programs?

Mr. MILLER. In terms of dollars, Congressman? That is a tough question. I don't know that, I really don't, just off the top of my head.

Mr. FORD. Mr. Miller is with the Arkansas State Department of Education. He runs the MSRTS.

Mr. GUNDERSON. Let me follow up on this, if I can. Title I is generally distributed based on the economic need of the students or the census in that particular district. Assuming we had no migrant program at all, would the migrant at all be affected or help determine the formula for determining what amount would go to that particular school district?

Mr. DE LA ROSA. No, they would not. The movement of the children in and out of States precludes them from becoming part of the count on your AFDC count.

Mr. GUNDERSON. I can see where they would move into a school district at a time after a census. Therefore, that school district wouldn't receive any funds. Some school district must receive funds for them, based on the census data of low economic——

Mr. FORD. Bear in mind that it is not just the number of children located at the time of the census between the ages of 5 and 17. It is those children between the ages of 5 and 17 with a family income below the poverty level.

By and large, the reason these people are migrants is because they work. They move around working, and they wouldn't qualify as living at their overall annual income below the poverty level. So, they wouldn't be counted for the title I formula.

Mr. GUNDERSON. Most migrant families wouldn't qualify for title I on their general income?

Mr. FORD. No.

Mr. DE LA ROSA. You are talking about serving them. You are not talking about generating money.

Mr. FORD. He is talking about the regular title I formula, 5 to 17 on AFDC or low income. I suggested that the majority of migrant families would not qualify as a title I child. They might qualify by

going to the school and participating in the program, but they wouldn't have been counted in Texas for the census purposes. Texas isn't getting money for them as low-income children.

Mr. DE LA ROSA. That is correct.

Mr. GUNDERSON. That is very enlightening.

Mr. FORD. It is a very important point that you raise. It is unfortunate that we hitch the migrant program, as we did back in the 1960's, into the low-income part of the law because that is not the characteristic of these children that led us to try to target them for special attention.

The characteristic is mobility, the movement of the families, the movement of the children and the interruption of any opportunity. Frankly, for migrants to take the easy way out for their children, what they ought to do is settle down, go on welfare, get health benefits and regular school for their kids, and not worry about running all over the country to work. It is because these people are pursuing the sun, looking for a job all the time, that they move with the seasons, starting in Texas and Florida and ending up in your State [Wisconsin] and mine [Michigan].

I know that in the Midwest we rely very heavily for the harvesting of our seasonal crops on the migrant work force which primarily comes out of—in our part of the country—Florida and Texas. There was a time when we got it from Appalachia and other parts of the country. Those people have in one way or another settled out, so the bulk of the migrant stream now really bubbles up in the South and the Southwest and rotates back.

Mr. de la Rosa's State is where they arrive at the very end of the season, up there in the State of Washington. When they get through in his school, they start back into Texas and southern California and start the whole thing over again.

The kids are moving along with the parents. That is one of the reasons we have been unable to come up with a strategy to do much about migrant children's high school attendance. What also happens is that you are dealing with people who have a very high motivation for work, a very strong conviction that anybody that is able to work should work, and, therefore, when a child gets old enough to reach up and pick, they are expected to do their share to contribute to the family income. That competes with going to school.

This is a real problem, to get the parents to understand that it is more important for their ultimate family destiny to have their kids go to school than to work in the fields or, in the case of little girls, take care of the little children so that mother can go and work in the fields.

The whole program has developed over the years as a series of strategies to try to deal with a very special kind of people; special not in that they are poor people or that they are welfare cases.

As a matter of fact, the reason we have trouble getting health care for them is that most of the States have residence requirements and they move along so that they can't even get into public health facilities State by State. The welfare agencies aren't interested in helping them when they have a problem because they don't live there.

We have a continuing need in agriculture for this. Really, the money ought to be coming out of the farm-support programs, not out of the education budget. If we subsidized an automobile worker's family the way we subsidize with Federal programs, a work force for American farmers, we would be in pretty good shape out in Michigan right now.

All of these programs have been put together to make it possible for people to survive and continue in this work and lifestyle. On the coast, you have the migrant fishermen, who we picked up after we discovered that a large number of them moved from time to time.

The real problem with this regulation is that there is no such thing, as the regular school year, really, when you look at that migrant program nationally. The regular school year is essentially all year around.

In your State and mine—and of course I am more familiar with Michigan than with Wisconsin—my strong suspicion is that because many of our crops are being harvested at a time when the regular school isn't in, that the migrant education program probably peaks during the summer months. That is when we have most of the kids participating in our State.

This regulation completely ignores States like ours. These children are in places like Texas and Florida during the regular school year, but they are up in our part of the country in the summertime and into the early fall. To think of a regular school year with respect to these people in a national program doesn't make any sense.

Mr. DE LA ROSA. Let me go back and expand on a point. This child who is currently migratory, at the end of 12 months we then move him into a different status. We then call him a settled-out migrant or a former migrant.

We keep that child in our records for a period of 5 years. That child generates funds and may be served if a needs assessment indicates that he is or she is in need of continued academic and supportive services.

But at the end of 5 years, we remove those children from the migrant list. They stop generating money, and their services, if they are still in need of services, then are transferred over to the chapter 1 regular program. So, at the end of 5 years, we stop drawing money on those children.

These mobile migrant children, however, the children that the Congressman described, they are in a constant movement pattern. They could, I suppose, if you did some cross-correlation between the number of AFDC children and the number of MSRTS parents, you might be able to find some matches, but I doubt that you would find very many that are both migrant in the AFDC count and on the FTE count rolls.

Mr. MELENDREZ. The chairman very well explained the situation that your State and his State are the receiving States for many of the Texas migrant children. I was one of those that worked in your State when I was a young man. It is usual that they will leave the State of Texas in late spring, early summer, and arrive in your State by way, sometimes, of Minnesota, or some other neighboring State, and work in the Wautoma area, central Wisconsin, southern

Wisconsin. Those are the places that I worked at. Or in Illinois or Michigan. Then they will return to Texas for the winter months. After the crops are harvested and there is no more work, they will return to their home State.

Both of your States do draw on the students that enroll in the MSRTS system and earn full-time equivalents based on the number of days or months that they spend in your States. Then Texas would draw the rest of the full-time equivalent for the time that they spend in the State of Texas.

That is how the whole system is set up.

Mr. CONTRERAS. The State of Texas has about 155,000 students who migrate to 42 different States.

Mr. GUNDERSON. Thank you, Mr. Chairman.

Mr. FORD. Thank you very much.

Mr. FORD. I have a group of migrant parents on the next panel: Mrs. Shirley Valdez of Madison, Wis.; Mrs. Maria Silva of Santa Maria, Tex.; and Mrs. Concepcion Pena from Boulder, Colo.

Who would like to proceed first?

STATEMENT OF SHIRLEY VALDEZ, MADISON, WIS.

Mrs. VALDEZ. My name is Shirley Valdez, and I am from Madison, Wis.

Thank you for inviting me to talk to you about migrant education. Before I tell you about myself, let me tell you a story that shows how migrant education has been a great help to my children.

In 1980 my family migrated from Texas to the State of Washington to pick asparagus. When we arrived, we had no money and work hadn't started yet. My 12-year-old daughter, Antonia, had a severe asthma attack, so we took her to a clinic. The clinic wouldn't help her because we had no money, so we went back to the labor camp.

We didn't know what to do. Soon, a recruiter for the migrant education program came to the labor camp where we were living to sign children up for school. When we told her about Antonia's sickness, she made arrangements for her to see a doctor and get emergency care right away without worrying about the bill. This is the kind of help migrant parents can get for their children through migrant education. Without this help, we have no one to turn to.

I thought about this experience with Antonia the other day when I learned that the Department of Education might change the definition of "migratory child." They want to serve only children whose parents' primary employment in the past 12 months was in agriculture.

It scares me to think that when my husband and children and I arrived in Washington in 1980, the children wouldn't have qualified for migrant education if this rule were in effect then.

You see, before we went to Washington we hadn't been doing farm work for a few years. We had to start migrating again because my husband was laid off in Texas and we just couldn't make it there. We really had no choice.

I was born in Texas, and both my parents were, too. They had been migrants all their lives, and they took me as a little child to

Michigan and Wisconsin for different farm work. Eventually they stayed in Chicago, telling me they wanted me to be able to go to one school without moving. I went to school until the 11th grade. I dropped out and helped my parents.

My husband Oscar has been a migrant farm worker most of his life. He has migrated to North Dakota, Florida, Texas, Montana, Washington, California, and Wisconsin.

Since Oscar and I both know how hard it is for children to migrate, we wanted to avoid that type of life for our children. For many years we were able to raise our children without migrating, but after being laid off in Texas in 1980, Oscar just couldn't find other work there.

We were forced to take our children and go looking for farm work because we knew we could find some job somewhere and earn some money. That is when we packed up and drove to Washington State, looking for work in asparagus.

From then on we were typical migrants. We went wherever we heard there might be some work available. Our children went to five different schools in just a couple of months. After asparagus, we tried to pick strawberries along the Washington coast, but Antonia got so seriously ill due to the weather that we had to move on.

We went to California, where we worked at a couple different tomato farms. The work there was brief but intense. We worked from 5 p.m. to 5 a.m. every day. After we were laid off, we found work in another town cutting garlic. Then, when the grapes were ready, we moved again. We cut grapes in two different towns, always moving on as soon as we were laid off.

At one job the only place we could find to live was a one-room shed for the six of us. There was an open sewage pit in front of the shed. When one of my daughters caught a bad case of impetigo, the doctor said she had caught an amoeba from the sewage pit.

When the grape season was over, my husband got a job as an irrigation foreman on a cotton ranch, and when he was laid off there, we moved on to another town, where he worked for a produce farm. The children and I cleaned cotton and cut grapes.

For my children it was a very hard time. Each time they went to a new school they had to get established all over again. Their new school was always working on something different than their old school. They fell behind and felt discouraged. They never felt they belonged in the community. They really needed migrant education to help them get adjusted and catch up on their subjects.

In September 1980 we migrated to Madison, Wis., because the grape season in California was bad, and my brother told me we would be able to find work there. We picked apples in Verona, Wis., and found a place to live in Madison. We have been in Madison ever since.

It has been tough making ends meet. For a while my husband lost his job and was washing dishes, but lost that, too. Finally, he found a job working at a nursery farm, but it was so far away that he had to leave me and the children and go live in a men's labor camp at the farm. We went through this forced separation because we had no other choice.

Oscar and I have 11 children. One of our sons is in the service in Germany. Our three youngest children are at home with us. They are all enrolled in the Madison migrant education program, and we are very pleased with their progress.

It was sad for them to be separated from their father while he worked at the nursery. We only saw him once a week. But the children were still in school, getting special attention to make up for what they had lost, and we just couldn't pull them out again. They were already too far behind.

Oscar's job at the nursery was only seasonal, so he is back home with us now. I am working part time as a cook in the local Head Start program, and once again Oscar is unable to find work. We are in a tight situation economically, and Oscar doesn't know when he will find a job.

We hate to have to migrate again, but that may be our only choice. There will be work available in asparagus in Washington State this spring, and we are thinking of going there and then to California.

Oscar and I have talked about him leaving us here and going out there alone so the children wouldn't have to change schools. But we really don't ever want to break up our family again. It is really hard.

We have also talked about waiting until school gets out and leaving then. We would really hate to interrupt the girls' schooling now, since they are getting the special help they need.

That is one of the problems with the proposed regulations. If we wait until the school year ends, my girls won't be eligible for migrant education when we get to Washington and California. That really bothers me because, as their mother, I know they will still need special services. I don't know why the department wants to ignore these children and the many others like them.

Migrant education has been the only thing that gives our family hope. The program gives my children a chance to catch up, to feel a part of their school, and to get special attention in the areas where they are weak.

I have a wish that my three youngest go as far with their education as they can. I hope someday they would get to college, but I know without migrant education this won't happen. I know without migrant education I will never see that dream come true.

Without the special teachers, instructors and staff, who my children have worked with, my children would be falling back. My children are always behind, but with the help that they get, I think my children are catching up. I feel the educational stream of migrant education is the only thing that keeps them going.

Like my daughters, I, too, am happy to be a part of the migrant education program in Madison. I was elected president of the parent advisory council by the migrant parents in our school district. I think the PAC is very important because it gives parents a way to meet and discuss their problems and share information.

Many migrant parents arrive in the area without knowing where to go for help. A PAC is always a good way to solve problems in a migrant education program. In Madison, we have an excellent program, but even so, we parents have discussed some needs our children have that aren't being met by the program.

We met with the school district as a PAC to discuss those problems, and together with the teachers and staff we are trying to solve those problems. I believe that working as an organization to improve the program is the only way we can be heard.

It is wrong for the department to propose a regulation to eliminate the PAC requirement. I think PAC's for migrant parents are the best way for us to make sure the programs work the way they should.

I hope my comments have shown some of the ways that the department's proposed regulations will hurt migrant children. It has been the biggest honor of my life to be here to speak to you on this subject. I know I speak for many migrant families when I ask you to support the program with all your heart.

Mr. ROSENTHAL. Mr. Chairman, with the committee's permission, Mrs. Pena will read her statement in Spanish, paragraph by paragraph, and I will read the English translation very briefly.

Mr. FORD. Fine.

Mr. BARTLETT. Mr. Chairman, I apologize to the parents. I have read and am taking with me your copies of your testimony. I have a 12 o'clock appointment that I have to get to, but I very much appreciate your coming here. I have my staff here, and I have read your testimony and appreciate getting to hear Mrs. Valdez' testimony. I have read it, but I will have to leave in just a moment. Thank you for being here.

STATEMENT OF CONCEPCION G. PENA, BOULDER, COLO., ACCOMPANIED BY ROGER ROSENTHAL, STAFF ATTORNEY, MIGRANT LEGAL ACTION PROGRAM INC., AND CRISANTO GUERRA, ATTORNEY, MIGRANT EDUCATION ADVOCACY PROJECT

Mrs. PENA [through interpreter]. Thank you very much for inviting me to participate in this hearing regarding the regulations for the migrant education program.

My name is Concepcion Pena. I have been a migrant all my life. I worked as a laborer in different hard jobs where we had to leave our homes and go from place to place and from State to State, and where we would leave friends behind because we had to harvest the crops. My parents were migrants. So were my uncles and grandparents. I married a migrant, and my children are also migrants.

One of the things I have battled with has been the moving we had to do year after year in search of a job. It has always been in my mind that parents have to be in close contact with schools and talk with the teachers and with the people who know about migrant education. I never wanted to move my children from job to job because I knew well how it could affect their education, since for me learning is living.

I lived in Eagle Pass, Tex. We would be there for 3 months, then we would go to Idaho to pick potatoes. I lived in California and worked there picking peaches and grapes. Later we went to Utah to pick tomatoes, then on to Colorado to pick cucumbers. In Taylor, Tex., we picked blackberries, and we picked cotton in Arizona.

After the death of my husband, I continued traveling with my five children, and they have always been in the migrant program. We always had the need to work, and this is why I hope this com-

mittee takes into consideration the difficulties of the migrants to survive. We migrants have many economic problems, as well as problems concerning housing, nutrition, health, and education.

In 1964, before there were migrant education programs, I met with the school principal, who informed me that my children were receiving poor grades in school due to their migration. I was told that if I settled in one place and did not migrate, then the children's grades would improve, because they were intelligent individuals. Unfortunately, we did not stop migrating because I could not find other work.

After that year my children participated in migrant education programs and received tutoring in math, English, and spelling. I saw a change in my children's attitudes toward school and a vast improvement in their grades. Two of my children who participated in the migrant programs have now graduated from law school.

When the children move from one area to another with their families, they are affected psychologically as well as educationally. They suffer the loss of their friends and culture, and they are placed in a different environment.

Even though the child does not have his education interrupted, he will nonetheless be faced with these problems. This should be taken into consideration in deciding which children are to be eligible for migrant programs.

To me the migrant should participate in the educational decisions of his children in order to contribute to a better society. The migrant suffers much due to his lifestyle and to not being able to remain in one place.

It is very important for the children to have a good education, and this is the reason why I am involved in the parent advisory council. This involvement in my children's education is an unforgettable experience. Parents are the first teachers of their children. We know our children's educational needs.

Migrant programs are very important to the development and future growth of migrant children. Migrant parents are not very well educated, but organized parents can accomplish more and have more input into our children's education.

Parent advisory councils are very important for this reason. We want our children to develop mentally as well as physically, to have a better future—for the betterment of this country.

I am against the proposed change which would require that the worker's primary employment be in agricultural activity. The children will need the services available in migrant education programs at all levels. Even though migrant parents sometimes obtain other employment, the children's educational needs remain the same.

Honorable committee, as a migrant parent I expect that in making your decisions you will consider the lifestyle of migrant families. The educational needs of migrant children who will no longer be eligible for migrant education programs will not be met if the proposed regulations are adopted.

I hope this testimony will help you better understand migrant farmworkers so you can help us improve the migrant education program.

Ms. GUERRA. Mr. Chairman, with your permission, I will be doing the translation for Maria Silva.

Mr. FORD. Fine.

STATEMENT OF MARIA SILVA, SANTA MARIA, TEX.

Mrs. SILVA [through interpreter]. My name is Maria Silva. I was born in Brownsville, Tex., and raised in the Rio Grande Valley of Texas.

I have worked in agricultural employment during the last 23 years. My husband and I have always worked in agricultural employment, given that we do not have the education to work in other employment. We have depended on the income earned in agricultural employment to support our 8 children.

We have traveled to numerous States to work in different types of agricultural employment. In west Texas we picked cotton and cucumbers, in Michigan we pruned pine trees and picked cherries, in southern Arkansas we hoed weeds in cotton fields, in Mississippi we picked cotton and hoed weeds, in Ohio we harvested cucumbers and tomatoes, in Idaho we harvested potatoes, and in Washington State we harvested asparagus. We migrated for 3 to 7 months each year, depending on the availability of work.

I want to express to this honorable committee that the migrant lifestyle is not easy because the family must leave the home without knowing what awaits them in the stream States. There are risks involved in the amount of work that the family will find because of the weather. If it rains, we cannot work, and sometimes we must return home to look for other work.

Sometimes we would return to Texas without money. Other times there is no housing or the housing is in bad condition or without adequate bathroom facilities or plumbing. We migrate nonetheless because of necessity due to the poor economic conditions in the country.

The purpose of this testimony is to inform you that migratory agricultural workers always travel with their families. My children have always traveled with us and have participated in migrant education programs in the stream States. The migrant education program has enabled my children not to fall behind in their studies and consequently not to drop out of school.

Why are migrant education programs so important? The children not only have a need to participate in the programs, but have a right to participate. The migrant children that travel to areas without migrant programs are faced with a different problem. I can give you the example of my 17-year-old son.

In June 1981 we traveled to Alabama, where there was not a migrant program. My son was behind in his courses, and he was to graduate from high school this year. However, he will not be able to graduate because he lacks one course that he could have taken that summer.

If you do away with the migrant education program as it exists today, our children will be greatly affected. In particular, the proposed regulations require that the children's education be interrupted in order for them to qualify for the program. This change

will eliminate children that are in need of the services available under the program.

We have a need to migrate and plan to work in agricultural employment during the months of June through September this year. Our children will not qualify for the program, even though they need this additional help.

Another change that is proposed by the regulations is that the workers' primary employment must be in an agricultural activity. We are not sure what they mean by a primary employment.

My husband receives a small check in disability benefits. If we earn less income from our agricultural employment than he receives from social security, will my children not be eligible for the program?

We travel to work in agricultural employment in order to be able to earn enough money to buy basic necessities. If we earn less income from our work in the fields or if we work less time in this work than in another employment, the children's needs do not change.

Another change which the regulations propose is that parent advisory councils are not being required. The school in Santa Maria does not consult with migrant parents even though it is required by law. We have always had problems in that the parents have not been informed on how the migrant funds are spent.

In the last few years we have not received copies of the budget. Furthermore, the parent advisory council has been ignored. We have not been consulted concerning the employment of teachers for the migrant education program. The meetings have not been called by the members of the PAC. Instead, the school officials decide when a meeting will be held and then, without informing PAC members, invite only a handful of parents.

My opinion is that the school officials are not interested in consulting with the parents. If this happens when the PAC's are legally required, what can we expect if the proposed change is implemented?

The Texas Educational Agency has notified the schools that they are not required to establish parent advisory councils. As a migrant parent, I am requesting that this change not be implemented.

I sincerely request from this committee that the migrant education program continue as it presently exists for our children's future. We leave the decision in your hands, hoping that you will decide what is best for our children.

Thank you.

Mr. FORD. Muchas gracias. Thank you very much for your testimony and for the effort that you have put into preparation for today. You have been very patient, waiting here all morning. It is worthwhile to have this kind of a record made for our colleagues in the Congress.

We appreciate your contribution and your support for the program. I know that your voice will be heard.

The committee will stand in recess at the call of the Chair.

[Whereupon, at 12:20 p.m., the subcommittee recessed, subject to call of the Chair.]

[Additional information follows:]

REDLANDS CHRISTIAN MIGRANT ASSOCIATION,
Immokalee, Fla., February 10, 1983.

Congressman CARL PERKINS,
Chairman, House Education and Labor Committee,
Washington, D.C.

DEAR CONGRESSMAN PERKINS: This is to appeal for your intervention against the Administration's newly proposed (Fed. Reg. Dec. 3, 1982) definition of "eligibility" for migrant children applying for education services under the Title I Migrant Education Act.

This rule change seems little more than a non-subtle device to cut costs by slashing the numbers of children who still will be in great need of extra help in a myriad of local school systems. Our organization daily works with these same families through our 32 child and infant care centers throughout Florida, where we annually serve 2,500 youngsters. We know first-hand that the enactment of this cruel new proposal will wreak havoc with the education of number of children.

In addition, we ask that you stand firmly against the elimination of the important role of the Parent Advisory Councils [PAC] in the Title I Migrant Education legislation. This very unwise change is also being backed by the Administration. In the life of the migrant child's attempt to gain an education, the mobile life style of his parent leaves them clearly the single most influential factor in this quest. Their interest and participation in his education is vital to any chance of real success.

And these PAC's have been clearly established as one of the best vehicles through which to achieve this needed parental interest and involvement. To eliminate the requirements of these groups will severely reduce the efficacy of the rest of the Migrant Education program.

Sincerely,

WENDELL N. ROLLASON,
Executive Director.

PREPARED STATEMENT OF CONGRESSMAN JOHN PAUL HAMMERSCHMIDT

Mr. Chairman: The President proposed budget reductions for migrant education in fiscal year 1984 are of great concern to me. I have long been a strong supporter of the Migrant Student Record Transfer System [MSRTS] in Arkansas since its inception and have witnessed its maturation, and great value to the migrant community.

I think you will agree that considering the legislative history of the program, the preponderance of evidence overwhelmingly supports the position that Federal categorical funding is required if the needs of migrant children are to be met and served adequately. As you will recall, States given their own priorities and concerns have never responded to this mobile population. Prior to Public Law 89-750, in 1966 only three States had appropriated any funds for migrant education. The migrant program differs from other educational programs in that the highly mobile child is often the concern of many school districts in more than one State. Therefore, the success and continuity of the migrant child's education depends largely on the leadership of the Department of Education with the joint cooperation of the States.

Under this law for the first time, payments were provided under title I, ESEA to State education agencies to provide and meet the special education and health needs of migrant children between the ages of 5 and 17. In this act, States were required to coordinate with other States in the transmitting of pertinent information in respect to school records for migrant education. The National Migrant Student Record became the eventual result of this provision.

Education of migrant children presents unique workload problems for the school districts. These children move frequently from school district to school district for periods which often do not coincide with normal school terms. The lack of educational and health histories prior to MSRTS made grade placement difficult and medical needs unknown.

The U.S. Department of Education with the cooperation of the States moved swiftly to correct these various inequities and developed curriculums in reading, math, early childhood and oral language. They also developed a very extensive health record which provides teachers and administrators immediate access in connection with the placement and provision of health care for migrant children. Since that time you can find many exemplary demonstration models for coordination, teaching exchange, and joint curriculum development, through this program. Interagency coordination has become a reality, with the Department of Education working with both the U.S. Health Department and the Rehabilitative Service in providing much needed and complex service to the migrant population.

Since the original amendment of 1966, Congress has strengthened this law on several occasions in order to be sure that the total needs of migrants and handicaps were being met. Public Law 90-247, signed into effect on January 2, 1968, was the basis of calculation for payment to the States. Again in 1970 Public Law 91-230 was signed into effect on April 13, 1970, which required the States receive their money based on the number of migrant children served. Then later Public Law 93-380 was signed into effect on August 21, 1974, which allowed the States to operate the programs for migrant children directly through the local education agencies [LEA's] which was a clear indication even at this late date that some states did not really care about this mobile population of migrant children. The lastest amendment to that act was Public Law 95-561, dated November 1, 1978, which even went further and strengthened MSRTS and the transferring of the education and health information on migrant children. Prior to 1966, 9 out of 10 children of migrant farmworkers never entered high school and only 1 out of 10 who entered ever graduated. Most migrant children up to that time usually dropped out of school in the fourth or fifth grades. As one can understand, their attendance was erractic due to their traveling, and with the need of the families to have them working in the field, as well as other conditions of the poverty which surrounds them continually, there was a great lack of continuity of curriculum and instruction. Above all, a prevalent negative attitude by the local community, coupled with the migrant student's commitment to their families and their poor health and nutrition, certainly detracted from their ability to learn when they did attend school. Since the Federal Government moved so humanely and has continued its efforts to strengthen the migrant program, it has become one of the most effective Federal programs. A large part of the credit for this is due to the cooperation of the Federal and State authorities. To date the migrant program currently serves approximately 800,000 migrant children in 49 States plus Puerto Rico.

I urgently request your assistance to assure that this success story is continued. I firmly believe that the migrant program is a model that can be used in the development of many other educational programs, and therefore deserves to continue at the fiscal year 1983 funding level.

In light of the $9.9 million rescission from State administration, evaluation, and migrant education under title I for fiscal year 1983, and the proposed 49-percent reduction in migrant education programs in the proposed Budget for fiscal year 1984, I feel compelled to pose the following pertinent questions to the Secretary of Education, which I hope will highlight the need for a restoration of funding for migrant education.

INTERROGATORIES ON MIGRANT EDUCATION FOR SECRETARY BELL

1. How do you plan to fund the Migrant Student Transfer System [MSRTS] and other interstate coordination activities since they are not specifically mentioned in the budget?

2. Since ECIA references statutory stipulations under title I of the Elementary and Secondary Education Act, did the administration consult with the States in its making recommendations for budget expenditures to specifically carry out the interstate coordination activities and MSRTS?

3. Mention is made that the number of migrant children served by the program was taken from the RTI Study. Can you defend those figures since then director of the Study questions the use of those figures?

4. Why do you wish to cut back the 5 year provision migrant students to 2 years when in fact the chapter 1, LEA program children are funded and served up to 10 years through the use of the census count?

5. How do you propose to differentiate between the migrant children and the chapter 1, LEA program children in determining the length of time they shall be served?

6. If the Congress were to support your recommendation that the 5 year provision children be reduced to 2 years, how do you propose that those children be served in the future?

7. How did you arrive at the figure that 70 percent of the migrant children were not moving when it is our understanding that the States can document that a larger percent actually move?

8. What prompted the administration to recommend a change in the definition of active migrant children when the Congress in passing the ECIA did not intend that such a change be made?

9. Hows many letters and/or comments have been received from the migrant community and general public opposing the changes in the regulations?

10. Does the administration, as it has constantly emphasized, intend to listen to the community reactions to regulatory changes and to the wishes of the States in determining what is best for them?

11. How can the continuity of education of migrant children be carried out fully if the Federal Government does not give full support to a program that addresses a national problem?

12. In the case of migrant children, does the administration understand why the Congress passed Public Law 89-750 as an amendment to Public Law 89-10?

13. Is the administration aware that the migrant program is primarily a rural program and that in many cases there are not chapter 1, LEA programs available to serve these children? How then do the enhancements to the LEA program address this problem?

14. Has the administration conducted a study or comparisons of Federal funds going to and related service offered by urban school districts as opposed to rural school districts?

CALIFORNIA STATE DEPARTMENT OF EDUCATION,
OFFICE OF THE DEPUTY SUPERINTENDENT FOR CONGRESSIONAL RELATIONS,
Washington, D.C., February 16, 1983.

Hon. CARL D. PERKINS,
Chairman, Subcommittee on Elementary, Secondary, and Vocational Education, U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I respectfully request that this letter and the attached set of comments and recommendations be incorporated in the record of your hearings on the Migrant Education Regulations, 34 CFR Parts 201 and 204.

Our primary concern is that the regulations as proposed violate the nature and purpose of Migrant Education as a national program serving eligible children as they migrate from area to area and from State to State. As a national program, it is crucial that Migrant Education maintain a single set of eligibility regulations and provisions of services. Such regulations anf provisions should not vary from state to state so that a child who is eligible for services in one state might be declared ineligible in another.

In addition to the problems with the eligibility regulations, we are also concerned about issues such as the requirements for evaluation, the removal of requirements for parental involvement, and the deletion of sections governing compliance agreements, supporting services, special descretionary projects, and other matters.

These recommendations have previously been filed with Mr. Vidal A. Rivera, Acting Director for Migrant Education Programs in the U.S. Department of Education.

I appreciate having this opportunity to present our views on this matter to your Subcommittee.

Sincerely yours,

DON WHITE,
Deputy Superintendent for Congressional Relations.

COMMENTS AND RECOMMENDATIONS ON PROPOSED REGULATIONS FOR MIGRANT EDUCATION, 34 CFR PARTS 201 AND 204, PREPARED BY CALIFORNIA STATE DEPARTMENT OF EDUCATION, JANUARY 1983

DELETIONS FROM CURRENT REGULATIONS

Of serious concern to the Migrant Education Program is the absence in the proposed regulations of a number of sections which govern the types of services to be provided as well as transactions between the Department and the SEA. Included in these deletions are sections regarding supporting services, special discretionary projects, and compliance agreements.

SUPPORTING SERVICES

One serious concern is the deletion of authorization for supporting services such as health, nutritional, and social services for migratory children. (34 CFR Part 204.59) As a result of their mobility, migrant children are often not present when schools conduct exams such as vision and hearing screening or when other services are provided. Generally, these services are provided by visiting staff on certain scheduled days, usually at the beginning of school. The necessary equipment and staff are frequently available only on the days scheduled for the tests or other services, so that children who are absent may not receive the services at all. For migrant children who typically either enroll late or leave school early, obtaining such

services is often a serious problem. To meet these needs, many migrant programs provide special supporting services, often through outreach programs. It is important to the welfare of these children that such services continue to be made available.

Another crucial supporting service is that of day-care for eligible pre-school and school-aged migratory children. A recent study of day-care needs among California's farmworker families indicated that in many families older children stay home from school to care for their younger brothers and sisters. When no child care is available, the problem of "latch-key" chidren becomes especially serious. Young children are left alone without adult supervision, frequently in isolated, rural areas, cared for only by their school-age brothers and sisters who must stay out of school to do so.

Recommendation: Regulations authorizing supporting services including health, nutrition and social services and day care should be continued.

SPECIAL DISCRETIONARY PROJECTS

Currently regulations (34 CFR 204.24) authorize SEA's to conduct special discretionary projects for the coordination of migrant education programs. Included among such projects are (1) transfer of school records, (2) parental involvement, (3) resource centers, (4) indentification and recruitment of children, (5) secondary school services, (6) information and dissemination centers, and (7) staff development services, as well as other projects which the SEA's deem appropriate to the goals of migrant education. It is unclear whether the proposed regulations, which are silent on the issue of discretionary projects, continue to authorize such activities.

Activities such as those listed above provide support services which enable migrant education programs to provide services to eligible children in the most efficient and effective ways possible. The transfer of school records, for example, is crucial to the migrant education program's goal of improving the continuity of the child's education. Secondary school services such as those which concentrate on credit accrual help remove obstacles to migratory students' completion of high school requirements for graduation. Activities such as these help to assure continuity in migratory children's education and to improve the provision of needed services to eligible children.

Recommendation: The provision for special discretionary projects (currently 34 CFR Part 204.24) should be continued.

COMPLIANCE AGREEMENTS

Under the current regulations (34 CFR 204.70), a state found out-of-compliance may enter into an agreement with the Secretary to improve program management and correct deficiencies, rather than losing its Chapter I programs altogether. The case of Puerto Rico, for which just such an agreement was developed, is an example of the need for this provision. It is in the interests of the eligible children that the Secretary and the SEA make all possible efforts to provide the necessary services.

Recommendation: Provisions for compliance agreements between the Secretary and an SEA should be reinstated.

COMMENTS ON PROPOSED REGULATIONS

In addition to the current sections which are missing from the proposed regulations, several of the proposed sections raise serious concerns. Primary among these are concerns over sections regarding eligibility, evaluation, consultation with teachers and parents, documentation of eligibility, and contents of the SEA's application.

Section 201.3 Definitions for this program

The new definitions of (1) currently migratory child, and (2) migratory workers in agriculture and fishing are ambiguous, create additional burdens to the state, and guarantee the establishment of inconsistent and conflicting standards of eligibility in the various states participating in the Migrant Education Program.

Our concerns regarding this section were expressed in our letter of December 22, 1982, to you:

One serious problem with the proposed regulations is the lack of consistent, nationwide standards for what is essentially a national program. If, as the regulations propose, each state were to develop its own criteria for eligibility, a child who would be eligible for services in one state might well be ineligible in another. For example, one state might define "primary employment" as employment from which the family earns 51 percent of its income. Another might define "primary employment"

as employment at which the parent is currently employed for at least four hours a day. A third might use a definition which considers total time worked during the past year. It would be possible for a child's eligibility to vary under these different criteria.

The issue of consistent standards of eligibility is crucial to the migrant education program's goal of improving the continuity of the child's education. If a child who is eligible in one state moves to another in which he is declared ineligible, important information about the child's health and educational status may not be entered onto his record during the time he is in the second state. When he returns to the first state, or moves to another state in which he is again considered eligible, there is a gap in the record, and it is impossible to determine what health or educational services he may—or may not—have received. Thus, it is crucial to the program that a child who is eligible to receive services should be able to qualify for and receive those services wherever he goes. This consistency in eligibility is the essence of the migrant education program—that services should follow the child throughout his migrations.

In fact, the migrant education program is a national program which should rightly have a single standard of eligibility which qualifies a child for services—not a multiplicity of eligibility standards which vary from area to area depending on the length of the school year or the date of the first day of school or on how a state decides to define or determine "primary employment" or "interruption" of a child's education.

An additional concern regards the ambiguity of the criteria themselves. What is "the regular school year," for example? In an area which supports year-round schools, the regular school year would be 12 months long. In another area, the regular school year might be only 9 or 10 months long. The proposed regulations do not provide a definition of a regular school year, nor do they provide guidelines on how such a term should be interpreted. Similarly, and even more ambiguous, is the idea of an "interruption" of schooling. What constitutes an interruption in order for a child to qualify for migrant education services? Again, what is "primary employment"? How should it be interpreted and determined? The proposed regulations provide no guidelines regarding the interpretation of these criteria. This ambiguity leads inevitably to inconsistent eligibility criteria as each state must resolve these questions independently.

INCREASED BURDEN OF COMPLIANCE WITH REGULATIONS

Another concern is the additional burden which would be imposed on the states and local agencies by eligibility standards which require an increased number of judgments in order to ascertain a child's eligibility. Even if each state were to establish clear and definite eligibility guidelines, the increased complexity of the eligibility criteria would complicate each step of determining eligibility. For example, the first step—determining the parents' status as agricultural or fishing workers—would require identifying not only their current and previous employment, but all jobs held in the past 12 months and the relative time spent and/or wages earned at each. This is a substantial increase over the current procedure which requires determining only that the parent has moved in the past 12 months to obtain qualifying employment. Similar problems exist in areas such as determining whether a child's education has been "interrrupted" as a result of the move.

To arrive at the necessary conclusion would involve much greater investigation on the part of the eligibility workers. Such investigation would, in turn, require more sophisticated skills in investigation and decision-making then exist among many of the community-liaison workers who currently do eligibility determinations for migrant education programs. Agencies will either have to retrain those workers they have or recruit new workers who already possess the necessary skills. In either case, that of retraining present employees or recruiting more skilled eligibility interviewers, agencies will face additional burdens on their recordkeeping, their staff time, and their budgets. And, of course, the greater the number of judgments which must be made, the greater the chance of error and resulting audit exceptions. It is in the interests of both the Federal Government and the states and local agencies alike that eligibility regulations be kept as simple as possible consistent with accurately identifying eligible children. We believe that the current regulations accompish this task and that the proposed regulations add unnecessary ambiguity, inconsistency, and effort to the process. We also believe that it is important to note that both houses of Congress have specifically rejected the proposed change and have passed an amendment to maintain the current criteria of eligibility.

Recommendation: In light of these objectives, we recommend that the definitions in effect on June 30, be maintained.

Section 204.23 Evaluation

The proposed evaluation regulations (34 CFR Part 204.23) for migrant education are inappropriate and meaningless. As stated, they reflect a naive and erroneous understanding of basic evaluation methodology and completely ignore evaluation literature documenting their inappropriate use for programs such as migrant education. Foremost, migrant pupils' mobility renders "objective measurements of (their) educational achievement in basic skills" impossible. Their mobility ensures that "treatment" can never be defined, hence, treatment effects insofar as the educational setting and requirements vary from site to site. As the primary language of the majority of migrant students in California is not English, the issue of language fluency further clouds the interpretation of test results. Finally, even if the ability to track the same child were available—which it is not—the mobility issue would also make a longitudinal study of migrant pupils infeasible for all of the reasons cited above (i.e., differing educational treatments). Consequently, it is recommended that the evaluation requirements as proposed be amended to (1) delete point (b) regarding the sustaining effect requirements, and (2) to change point (a) by deleting the objective measurement requirement and replacing it with the more appropriate measures of program success. Such measures include the number of students staying in school, increased attendance, number of students graduating from high school, number of students going on to college or vocational training institutions, number of students successfully placed in jobs, the early diagnosis and treatment of health problems (which have been shown to be cost-effective), a reduction in the numbers of children considered to be at risk, and a variety of other measures which are much more meaningful than the proposed "objective measurement."

Recommendation: We recommend that evaluation criteria be developed in concert with state migrant education staff which address more effectively the issues of migrant education. One of these issues is the need for a broader definition of child outcomes which would address measures other than traditional achievement measures. Such outcomes would include, but not be limited to, graduation, attendance, placement, improved health, successful placement in post-high school education and/or training programs. Such a definition would be in line with Brontenbrenner's call for more global definitions of evaluation and outcome measures.

Because the mobility of migratory children results in constant change in school populations and treatments (that is, migrant services), the use of traditional evaluation designs becomes problematic. For identifying individual child effects, the ideal design would be that of longitudinal case studies. Whatever the design selected, outcome measures need to be broadened from simple test results to include such appropriate measures as improved attendance, higher rates of graduation and promotion, improved health, and the like. Quality of services could also include a review of delivery system issues such as immediacy of diagnosis, placement, and monitoring of student progress.

Section 204.21 Consultation with teachers and parents

The elimination of the requirement that parents be included in program design and implementation threatens the ability of parents to participate in the programs which serve their children. Migrant parents are especially disentfranchised in this process because, moving frequently as they do, they are unable to vote for members of the local school boards. To eliminate the requirement that they be consulted in at least that program designed especially to meet their children's needs is to estrange them entirely from their children's education.

Recommendation: The requirement of parental involvement in Chapter I programs, and in Migrant Education Programs in particular, should be reinstated.

Section 201.30 Eligibility of a child to participate

The difference between documentation of eligibility procedures—how the child's eligibility is assessed—and verification of the information collected to determine the child's eligibility continues to cause considerable confusion. This is particularly strongly evidenced by the concern expressed by numerous agencies over the need to conduct extensive verification of information about income and school enrollment if the proposed eligibility regulations were to go into effect.

Recommendation: The section should be clarified to include a statement that the SEA or operating agency is not required to verify information collected in order to determine the child's eligibility.

Section 204.12 Contents of an SEA's application and updating information

With the elimination of regulations which define the types of services which may be provided with migrant funds, the proposed regulation regarding the contents of the SEA's application has become vague, ambiguous, and inspecific. Current regulations under 34 CFR Part 204.12 require the SEA's application to provide information regarding (1) identification and recruitment of eligible children, (2) numbers and categories of children to be served beyond simple identification and recruitment, (3) needs which indicate services needed by eligible children, (4) a description of the plan for evaluation of the program, (5) descritpion of instructional services to be provided, (6) description of how the parent advisory councils will be used to meet the requirement for parental participation at both the state and local levels, as well as other requirements for descriptions of efforts in the areas of inter- and intra-state coordination, use of operating agencies, use of equipment and facilities, interagency cooperation, monitoring and enforcement, use of administrative funds, and training for staff and participating parents. The proposed regulation requires only that the SEA describe how it will use its federal funds, how "the program will comply with the Chapter I and applicable regulations," and describe any substantial changes in the numbers of children to be served or the services to be provided.

One of the goals of the national program in migrant education is to ensure appropriate accountability on the part of the SEA for its use of federal funds. Crucial to this goal is the ability to relate costs to services provided to meet the needs of the eligible children. To this end, the current regulations require that each state assess the needs of eligible migratory children, to design services and allocate resources to address those needs, and to identify the costs of providing the needed services. Ideally, this step is mirrored at the local level, between the SEA and the local operating agency.

Although the requirements for the application may appear burdensome, they are, in fact, the normal procedures for the careful planning and allocation of scarce resources. The regulations as they stand require a single, consistent planning procedure for all participating states. Such consistent planning is essential to the effective and equitable operation of a national program.

Finally, the proposed regulations are vague and inspecific and fail to establish clear criteria against which the SEA's applications may be judged.

Recommendation: A single set of planning criteria should be maintained in the requirements for an SEA's application. It is recommended that the current regulation be continued.

COMMONWEALTH OF PUERTO RICO,
DEPARTMENT OF EDUCATION,
Hato Rey, P.R., February 28, 1983.

Hon. CARL D. PERKINS,
U.S. House of Representatives,
Washington, D.C.

DEAR CHAIRMAN PERKINS: I am writing to submit the enclosed statement concerning proposed regulations for the Migrant Education Program which were published in the Federal Register on December 3, 1982. If possible, I ask that this statement be included in the record of the hearing of the Elementary, Secondary and Vocational Education Subcommittee which was chaired by Congressman William D. Ford on February 17, 1983.

I recognize and applaud the leadership that you and Congressman Ford have continually provided in support of migrant education. If there is any student population which requires attention on a national level it is the children who migrate with their parents from area to area and from State to State in search of employment in agriculture or fishing. As a national program, it is crucial that the Migrant Education Program maintain a single set of eligibility requirements. Such uniformity is essential so that a migrant child who is served by the program in one State will not be denied services in the next State to which he migrates.

Consequently, I am concerned about the proposed changes in the regulatory definition of "currently migratory child" which, if adopted, would invariably lead to inconsistency among the States. Moreover, the proposed new definitions of currently migratory child, migratory agricultural worker and migratory fisherman would add substantially to the administrative burdens of State and local educational agencies.

For the reasons discussed in the enclosed statement, I believe that the current definitions best reflect the universe of needy migrant children. Therefore, on behalf of the migrant children of Puerto Rico and migrant children throughout the Nation, I urge you to support congressional action to retain the current standards of eligibility for participation in the Migrant Education Program.

You are most welcome, at any time, to visit Puerto Rico to observe the valuable services which the Migrant Education Program is currently providing to 11,270 migrant children on the Island.

Cordially,

MARIA SOCORRO LACOT,
Secretary of Education.

PREPARED STATEMENT OF DR. MARIA SOCORRO LACOT, THE PUERTO RICO SECRETARY OF EDUCATION

INTRODUCTION

I am pleased, as the Puerto Rico Secretary of Education, to submit this statement concerning the proposed regulations for the Migrant Education Program (34 CFR 201) which were published in the Federal Register on December 3, 1982.

During the past 16 years, the Federal funding provided for the Migrant Education Program has been a major factor in proving the educational services for migrant children throughout the Nation—including thousands of such children in Puerto Rico. In my view, the Migrant Student Record Transfer System [MSRTS], interstate coordination of services, specially tailored educational and health services and increased awareness of the unique needs of migrant children which have resulted from the Migrant Education Program have significantly improved the educational opportunities of migrant youth.

Many Puerto Rican children suffer the disadvantages attributable to the condition of migrancy within Puerto Rico and from Puerto Rico to the various harvest locations in the eastern United States. We are appreciative that, during fiscal year 1983, the Puerto Rico Department of Education received $2,834,817 in funds under the Migrant Education Programs which resulted in special services for 11,270 such children.

I recognize and applaud the leadership that various members of the Congress have provided in support of Migrant Education. If there is any student population which requires attention on a national level it is the children who migrate with their parents from area to area and from State to State in search of employment in agriculture or fishing. As a national program, it is essential that the Migrant Education Program maintain a single set of eligibility requirements. Such uniformity is needed so that a migrant child who is served by the program in one State will not be denied services in the next State to which he migrates.

Consequently, I am concerned about the proposed changes in the eligibility criteria which, if adopted, would invariably lead to inconsistency among the States. Moreover, since I share Secretary Bell's goal of simplifying regulations for federal education programs, I am concerned that the proposed new definitions of currently migratory child, migratory agricultural worker and migratory fisherman would add substantially to the administrative burdens of State and local educational agencies. My specific concerns regarding these proposed changes are set forth below.

PROPOSED CHANGE IN THE DEFINITION OF CURRENTLY MIGRATORY CHILD (SECTION 201.3)

I object to the proposed change in the criteria for identifying children as eligible to participate in the Migrant Education Program. While the current regulations define a currently migratory child as one who has moved from one school district to another within the past 12 months, the proposed regulations would add a requirement that, for a child to be considered currently migratory, he must have "had his education interrupted" as a result of a move "within the past 12 months and during the regular school year." In my view, this proposed requirement reflects an overly narrow view of the disruption and negative effects of migrancy. Moreover, it would create substantial administrative problems.

What standard are State and local educational agencies to use in determining whether a child's regular education has been interrupted? Since the proposed regulations do not define the terms "interupted" and "regular school year," it would be necessary for each State educational agency [SEA] to establish its own definitions for those key terms. Such an approach would invariably lead to inconsistency among the States. As I previously stated, uniform standards for eligibility are crucial in a national program which by its very nature serves a highly mobile population. It is not consistent with the objectives of the Migrant Education Program to create a situation where a child who is considered eligible in one State is not eligible in the next State to which his family migrates. Similarly, the regular school year varies from jurisdiction to jurisdiction. Thus, I support retaining the current definition of "current migratory child."

As I am certain the members of the Subcommittee are aware, the comment and response discussion which accompanied publication of the current migrant education regulations in 1980 stated that . . . the Commissioner has no authority to regulate with respect to the time of the year during which a child migrates . . . to qualify as a currently migratory child. Since the statutory provision on eligibility for the Migrant Education Program has not changed, where does the Department now derive the authority to regulate on this matter? Congressional intent on this issue was reconfirmed in December 1982 when both houses of the Congress passed a technical amendment to chapter 1 which provides that "the Secretary shall continue to use the definition of 'currently migratory child' which was in effect on June 30, 1982." If the Department were to now adopt a new definition of "currently migratory child," it would be in direct conflict with this clear expression of Congressional intent.

PROPOSED CHANGE IN THE DEFINITION OF MIGRATORY WORKER (SECTION 201.3)

I also object to the proposal to narrow the definitions of "migratory agricultural worker" and "migratory fisherman." Under the current regulations, a migratory worker is someone who has moved from one school district to another within the past year "to enable him or her to obtain temporary or seasonal employment" in agriculture or fishing. In contrast, the proposed regulations would go much further by stipulating that—in order to be considered to be a migratory worker—the person's "primary employment" during the past 12 months must have been in an agricultural or fishing activity."

In my view, State and local educational agencies are not in the position to make determinations about an individual's "primary employment." Should the judgment be made on the basis of money earned during the past 12 months, or the amount of hours spent performing the different types of work? Would the fact that a man worked as a janitor for 14 weeks during the past year and picked fruit for 12 weeks mean that his family was not a migrant family? I think not. Since the Department has failed to set any standards for determining "primary employment," each SEA would be forced to develop its own criteria. This would create an unacceptable situation where a child may be considered eligible in one State but not in the next State to which his family moves. Perhaps most importantly, the proposed change ignores the realities of the migrant lifestyle in which workers alternate between menial jobs at their home base and agricultural jobs while migrating. I strongly recommend retaining the current definitions which encompass the true universe of migrant workers.

CONCLUSION

For the reasons discussed above, I believe that the current definition in the 1980 regulations best reflect the universe of migrant children. Therefore, on behalf of the migrant children of Puerto Rico and migrant children throughout the Nation, I urge immediate Congressional action to retain the current standards of eligibility for participation in the Migrant Education Program.